

**School of Accounting
Curtin Business School**

**The Development of Public Sector Audit Independence:
The Colonial Experience in Western Australia**

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**This thesis is presented for the Degree of
Doctor of Philosophy
of
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DECLARATION

To the best of my knowledge and belief this thesis contains no material previously published by any other person except where due acknowledgment has been made.

This thesis contains no material which has been accepted for the award of any other degree or diploma in any university.

Signature:.....
Date:.....16 January 2017

ABSTRACT

This thesis makes a connection between the histories of public sector audit and those of Parliament and public administration.¹ In so doing, it reveals important findings that provide a precedent for retaining the independent Auditor General as a fundamental requirement of Australia's Westminster-based constitutional arrangements, and which are essential for enabling an informed defence against potential erosion of effectiveness. As a secondary purpose, this study also substantially contributes to filling significant gaps in the specific history of the Auditor General's role in Western Australia between 1829 and 1891, using new data identified in archival official correspondence and other original source material.

How and why the principles of independence in public sector audit came to be seen as essential for democratic accountability are questions that have received limited attention from scholars, even though the field of accounting and auditing history (in both the public and private sectors) has many ongoing discussions and a wealth of already-published research. Nineteenth-century public sector auditors in Britain and in the Australian colonies were understood to provide essential controls in managing public finances, but they operated as an arm of Executive government. It is the nineteenth-century transition of the Auditor General from an Executive functionary to an independent officer of Parliament that is of interest here. Appointing an independent Auditor General provided a crucial strengthening of Parliament's historically-claimed constitutional power over the Executive.

In providing a new narrative description of the development of audit independence in a Westminster jurisdiction, this thesis delivers a foundational understanding to inform improvements in policy and legislative development and to substantially add to Australian and international discourse around the constitutional framework within which the Auditor General works as an independent officer of Parliament.

¹ The formatting used throughout this thesis is in accordance with Curtin University requirements and APA style. The words "Parliament" and "Executive" and their derivatives are generally capitalised as they refer to political entities of significant relevance to the arguments here around democratic governance. The non-hyphenated form of "Auditor General" is used (except in a few instances where the hyphenated form is specific to a particular jurisdiction or quote) as it is the one used by the Office of the Auditor General in Western Australia and was the usual form in nineteenth-century documents.

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Micah 6:8: "And what does the LORD require of you? To act justly and to love mercy and to walk humbly with your God".

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LIST OF ABBREVIATIONS

AJCP	Australian Joint Copying Project
CO	Colonial Office (London)
CSO	Colonial Secretary's Office (Western Australia)
DACG	Deputy Assistant Commissary General
Deb	Debates
HC	House of Commons
HRA	Historical Records of Australia
Imp.	Imperial
INTOSAI	International Organisation of Supreme Audit Institutions
LA	Legislative Assembly
LC	Legislative Council
NPM	New Public Management
NSW	New South Wales
PAC	Public Accounts Committee
Qld.	Queensland
SA	South Australia
SROWA	State Records Office of Western Australia
Tas.	Tasmania
UK	United Kingdom
Vic.	Victoria
WA	Western Australia
WAPP	Western Australian Parliamentary Papers

RELATED THESIS PUBLICATIONS

The material in Chapter 7.2 has been published in:

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CHAPTER 1

INTRODUCTION AND OVERVIEW OF THE STUDY²

1.1 INTRODUCTION AND BACKGROUND

An independent Auditor General is seen as critical to modern day Parliamentary sovereignty (Commonwealth Joint Committee of Public Accounts and Audit, 1996; Dewar, 1988; Funnell, 2003, 2007; Kiraka, Clark, and De Martinis, 2002; Normanton, 1966). This thesis examines the origins and development of that independence in Western Australia and Britain by considering the development of public sector audit in the nineteenth century.³

The Westminster-based system of democratic government was exported to many countries as a bequest of Britain's imperial past. In each of these jurisdictions, the modern system relies on a combination of a written constitution and unwritten precedent; that is, a part-written constitution. Further, modern Westminster-based democracies have public sector audit functions based on those established in Britain during the seventeenth, eighteenth and nineteenth centuries (Baker and Rennie, 2013; Colquhoun, 2011; Di Francesco, 1999; Funnell, 1994a, 1994b; Funnell, Cooper, and Lee, 2012).

An element of that system recognises the importance of an independent Auditor General as assisting in providing an assurance of government (Executive) accountability and transparency (Commonwealth Joint Committee of Public Accounts and Audit, 2010; Gilchrist and Coulson, 2015; Thomas, 2003). Indeed, independent auditing of the expenditure of public funds is an essential part of modern constitutional safeguards (Funnell et al., 2012; Normanton, 1966). However, this understanding of the Auditor General's role is relatively new. Auditors (whether public sector-focused or private sector) were not a new idea when Australia was first

² A brief note on formatting and spellings used in this thesis: the formatting used throughout is in accordance with Curtin University requirements and APA style. The words "Parliament" and "Executive" and their derivatives are generally capitalised throughout as they refer to political entities of significant relevance to the arguments here around democratic governance. The non-hyphenated form of "Auditor General" is used throughout (except in a few instances where the hyphenated term is specific to a particular jurisdiction or quote) as this form is used by the Office of the Auditor General in Western Australia and, additionally, was the usual form in most nineteenth-century documents.

³ The term "public sector audit" is generally used in this thesis, although some other research refers to it as "state audit".

colonised by Britain in 1788 (Commissioners for Auditing the Public Accounts, 1785; Di Francesco, 1999; New South Wales Auditor General's Office, 1963) but the nature of their role and relationship with the Executive was different. Nineteenth-century administrators understood public sector auditors in Britain and in the Australian colonies as providing an essential control in the management of public finances, but they were clearly an arm of Executive government.

Public sector audit in Australia and Britain underwent an almost complete transformation during the nineteenth century. The role of the Auditor General changed from providing an administrative function for Executive government to that of an independent officer of Parliament operating as a check on Executive government. The appointment of an independent Auditor General was a significant strengthening of Parliament's historically-claimed constitutional power to control Executive expenditure. The transfer of this power did not happen easily. Notwithstanding the modern prominence of an independent Auditor General, research on this transition is limited, perhaps because of the difficulty in undertaking the interdisciplinary crossover necessary to connect the histories of public sector audit with those of Parliaments and public administrations.

This thesis does make that connection and reveals important findings that increase the understanding of the Auditor General's constitutional role in modern democratic governance. These findings provide a precedent for retaining the independent Auditor General as a fundamental requirement of Australia's Westminster-based constitutional arrangements, and are essential for enabling an informed defence against potential erosion of effectiveness. Without a full understanding of the precedents by which government functions, and how these precedents were obtained, the risk of losing them is increased (Bunn, Pilcher, and Gilchrist, in press; Finn, 1987; Pilcher, Gilchrist, Singh, and Singh, 2013).

1.2 RESEARCH SCOPE

The intent of this thesis is to examine the origins of the concept of an independent Auditor General in the nineteenth-century Western Australian and British Imperial contexts. The work is, therefore, not intrinsically concerned with audit theory but,

rather, the precedent of independence in the modern office of the Auditor General as it pertains to the Westminster system of government. This thesis explores the development of public sector audit independence in the nineteenth century by means of a focus on the Auditor General role in one British colonial jurisdiction—the Swan River colony (now Perth) of Western Australia.

There were several reasons for choosing the Swan River colony jurisdiction. Firstly, the Western Australian colonial period neatly spans the period of public sector audit development that is most pertinent to the questions being asked. The constitutional transformations in this colony, particularly to representative then to responsible government in 1870 and 1890 respectively, proved to be integral to the implementation of an independent Auditor General as a legislative check on Executive expenditure. Secondly, the evidence to address this overlooked area of research was readily available in rich sources of empirical data. Thirdly, this was only the third British colony to be established in Australia but, notably, it was the first non-penal settlement in Australia and was not an Imperially promoted scheme of settlement. Combined with its relative isolation from the colonies in Eastern Australia, the effect was that the government's administrative and constitutional frameworks in Western Australia were less subject to the sometimes volatile events of the earlier penal colonies in Australia.

The time frame is primarily restricted to the beginnings of the colony in 1829 through to the passage of the *Audit Act 1891* (WA). This mid-nineteenth century period was a formative time for the development of many administrative processes in democratic governance, especially in Britain and its many colonies, and some of these processes have been well studied (as is discussed in Chapter 2). Public sector audit has not been so favoured, although it also underwent considerable changes in this same period.

By providing an understanding of the development of audit independence, the contextual analysis of this thesis significantly adds to understanding of an issue of central importance to modern Australian and international public sector audit. As a secondary purpose, this study also substantially contributes to filling major gaps in the specific history of the Auditor General's role in Western Australia between 1829

and 1891, using new data identified in archival official correspondence and other original source material.

1.3 RESEARCH QUESTIONS

How and why the principles of independence in public sector audit came to be seen as essential for democratic accountability are questions that have had limited attention from scholars, even though the field of accounting and auditing history (in both the public and private sectors) has many ongoing discussions and a wealth of already-published research findings.⁴ In summary, the contextual historical analysis of this thesis seeks to respond to two primary research questions:

1. Why did the principles of independent public sector audit come to be recognised in the nineteenth century as a key accountability mechanism for democratic government?
2. How were those principles implemented in regard to the Auditor General's role in Western Australia between 1829 and 1891?

In addressing these questions it is expected that the results of this research will enhance understanding by: (1) identifying major themes in both Western Australian public sector audit practice and in Westminster constitutional development; (2) synthesising a new chronological and contextual narrative on the topic; and (3) generating a conceptual framework describing public sector audit independence.

1.4 SIGNIFICANCE OF RESEARCH

The imperative of having an Auditor General with independence from the Executive government is a central proposition of contemporary public sector audit and government accountability. This thesis provides an essential platform for understanding the foundation of the Auditor General's role as an independent officer of Parliament and of the constitutional framework within which that officer works. The primary concern is the constitutional significance of Auditor General independence to the present state of Executive accountability.

⁴ These discussions and findings are considered in more detail in Chapter 2. See also Bisman (2012); Bunn et al. (in press); Carnegie and Napier (1996); Fleischman and Radcliffe (2005); Funnell (2007); Moussalli (2008); Sargiacomo and Gomes (2011).

Australian governments at both the national and state levels follow the British model of a Westminster-based system of democratic governance, at the heart of which is the concept that political authority should be limited by law. The Australian Constitution implements the concept of democratic governance by dividing and separating the powers to govern amongst three separate bodies—the judiciary, Parliament, and Executive government. This arrangement has developed over centuries and, as each body provides checks and balances on the others, is intended in modern times to prevent oppressive government by ensuring that elected legislators and public administrators do not abuse their power and remain accountable and responsive to the people. Parliament is further enabled to scrutinise Executive government activity through the operations of its independent officers, which have various protections (usually legislative) to safeguard their actions from Executive influence and which ensure their ability to report to Parliament on Executive activities without fear or favour (Constitutional Centre of Western Australia, 2006).

The finances of government have long been the cause of constitutional dissatisfaction in history and certainly were at the root of the seventeenth century Civil Wars in Britain (Maitland, 1911). To ensure sound financial governance, control today is balanced between the Executive and Parliament. The Parliament authorises supply in the context of the Executive's request and the Executive uses supply to implement its policy program. The Auditor General is the independent officer supporting the Parliament in its oversight of the Executive's use of public funds. In providing a check on the financial activities of government and an assurance to Parliament, the Auditor General's role in examining the effectiveness and efficiency related to public sector expenditure is critical to Parliament retaining financial control and power (Normanton, 1966).

Public sector audit is, therefore, the essential link in ensuring the constitutional Parliamentary "power of the purse" and it is the relationship of the Executive and the Parliament that is of interest in this thesis: specifically, the nineteenth-century transition of the Auditor General from a non-independent officer of the Executive to an independent officer of Parliament. The quest for Auditor General independence was about the transfer of the power to control financial expenditure from the Executive government to the fully representative and responsible Parliament.

The answers to the two thesis questions provide the major findings. Firstly, that Auditor General independence was largely implemented in the nineteenth century because of a growing understanding that it could provide an effective check on Executive government expenditure and thereby strengthen Parliament's historical constitutional "power of the purse". Secondly, the case study narrative of Western Australia answers the thesis question about how the principles of Auditor General independence were implemented, demonstrating the long struggle between the Parliament and the Executive government for control of public finances. This nineteenth-century battle to obtain constitutional control over public finances (via an independent Auditor General operating as an officer of Parliament), although largely now forgotten, was real and hard-fought. It deserves more recognition, for several reasons touched on below.

Perhaps the most important of these reasons is that the permanence and effectiveness of the Auditor General's role in ensuring accountable and open government today cannot be taken for granted. Understanding the foundation of the Auditor General's role, and the framework within which that officer works, is essential for its defence against any erosion of effectiveness—as is the case with all constitutional arrangements based in the Westminster system. Even in an open democracy, there is inherent tension in the relationship between Executive government and the "watchdog" appointed to scrutinise and report on its expenditure of public money (for example, see the attempt in the late 1990s of the then-Victorian Premier, Jeff Kennett, to effectively privatise the Office of the Auditor General (English, 2003; Nagy, 2002)).

Another important reason is that the process of development provides essential precedents informing the part-written constitutions of the Commonwealth (or Federal) government and each of the Australian states. The reliance on unwritten conventions (which Mann (2014, p. 36) defined as "rules which are generally observed but have no legal force") means that the process of judicial review and the operation of precedent are integral to constitutional law. Without an appreciation of the conditions by which governments function, and their development trajectory (including precedents relating to the purpose, powers and functioning of public sector auditors), it becomes difficult to protect essential controls in constitutional

arrangements which are only partly written (Finn, 1987; Gilchrist and Coulson, 2015; Pilcher et al., 2013).

Furthermore, to date there has been no significant or comprehensive research regarding the development of the Auditor General's place in Western Australian public governance and its importance in relation to either democratic accountability or public sector audit. This history is vital for educators and policy-makers alike in terms of current public sector audit practice and government accountability.

Much more than a correction of an oversight in parochial historiography, the focus of this thesis provides a new narrative description of the development of audit independence in a Westminster jurisdiction—a foundational understanding that will inform improvements in policy and legislative development and which will substantially add to the Australian and international discourse.

1.5 ORGANISATION OF THESIS

A schematic overview of the thesis structure and the chapter connections is included as Appendix 1. In summary, Chapter 1 provides an overview of, and the background to, the thesis, along with the two key research questions.

Chapters 2 and 3 provide evidence demonstrating the rationale for the thesis framework. The review of literature relating to public sector audit history, predominantly in Britain and Australia, finds the origin of the concept of independence in public sector audit is an under-researched area particularly in terms of why and how the concept became entrenched in the nineteenth century (Chapter 2). A justification is provided in Chapter 3 for the adopted research paradigm of a qualitative and inductive intellectual history in the tradition of the Sussex School. The research methodology and theoretical framework are also examined, and the two-phase research design is outlined. Specific archival sources are listed in the References.

The extensive data identified during the initial phase of the research were analysed in the second phase and used to synthesise the findings presented in the subsequent chapters of this thesis.

Chapters 4, 5 and 6 provide a contextual background to answer the thesis question about why the concept of Auditor General independence became understood as a fundamental accountability mechanism, by demonstrating its increasing use by the British Parliament over the centuries as a tool for enabling a check on Executive government expenditure both in Britain and in its several colonies. In Chapter 4, the association between public sector audit and political power is discussed and a contextual overview provided of the British Parliament's increasingly successful efforts for direct financial control over Executive government expenditure, particularly throughout the nineteenth century. A connection is identified between the implementation of public sector audit legislation that strengthened Parliament's constitutional control of public finances with other political and social constitutional reforms that established a more representative and accountable government—a narrative linking the history of public sector audit with Parliamentary and constitutional history. Chapter 5 examines the operation of public finances in Imperial Britain's many colonies during the first half of the nineteenth century, and the various political, administrative and cultural mechanisms used for oversight and control. Chapter 6 considers how these financial management instruments were applied in the first half-century of the British colony of New South Wales. Early problems arising from fluctuating responsibilities between major controlling entities, and deficiencies in instructions, audit processes and the personal integrity of core personnel, are shown to have resulted in the subsequent preparation and implementation of a new system of colonial audit in the 1820s and 1830s.

Chapters 7-9 provide a case study narrative to answer the second thesis question: how the principles of Auditor General independence were implemented in the British colony of Western Australia. The operation of public sector audit in the Swan River colony, and the attempts to implement effective legislative control of government finances, are presented in this narrative. It is clearly demonstrated that colonists increasingly understood their constitutional right to control Executive government expenditure to be fundamentally linked to the constitutional status of the colony as a

whole and the role of the Auditor General. This understanding is demonstrated repeatedly from the very first year of operation of the colony's Legislative Council (1832) and throughout the many decades before obtaining a fully responsible government (in 1890). It is most clearly seen in the battle to implement an independent Auditor General in 1880.

Finally, Chapter 10 concludes this thesis, summarising the major findings and implications: that the nineteenth-century implementation of Auditor General independence was understood as fundamentally linked to the historical constitutional "power of the purse" held by Parliaments in Westminster-based democracies. Moreover, the struggle in the nineteenth century to obtain that control (an independent Auditor General operating as an officer of Parliament), although largely now forgotten, was real and hard-fought. It deserves more recognition.

1.6 LIMITATIONS

Independent Auditors General, or Supreme Audit Institutions, are today found throughout the world but the scope of this research analysis was restricted to one jurisdiction in a critical time frame, namely, the nineteenth century Western Australian Colonial Audit Office in the context of contemporaneous developments in Imperial government. This limitation was necessary to maintain a tight focus on the thesis objectives within the time constraints and amount of potential data. Some brief references are, however, made to relevant events in other jurisdictions including the United States, Canada and New Zealand.

The historical nature of this thesis limited the available approaches, as other qualitative research methods—such as interviews or observation—were simply not viable (Merriam, 1998). Further, the data were originally generated not for the purposes of this thesis but for administrative and/or political aims, and the creators were not representative of the general population but of a small cohort largely comprised of literate, British, socially and politically elite men. Nevertheless, these aspects of the data did provide the necessary contextual evidence of the daily reality being studied (as per the Sussex School approach to intellectual history) and the historical records were reasonably complete and readily accessible. The design

strategy of entering identified data into a chronological database proved to be an effective method for capturing and managing the large amount of data able to be collected and also provided built-in cross-checking controls. The risks of observer bias, interpretive errors and the difficulty of recreating the social and political milieu of the time were minimised by the size of the database, the multiplicities of available viewpoints and the careful transcription of original data without amendment.

1.7 CONCLUDING REMARKS

The part written, part precedent-based constitutions typical of the Westminster system of political organisation developed over an extended period. Because of their nature, such constitutional arrangements can be subject to the political and economic pressures prevalent from time to time and pragmatic political actors may move to avoid or set aside unwritten precedents that are otherwise essential in ensuring Parliamentary sovereignty.

Such actors may set aside constitutional arrangements intentionally or unintentionally, depending on their depth of knowledge as to the existence of these precedents, the nature of the problems faced and the extent to which other actors recognise the importance of the particular constitutional element. The existence of an independent Auditor General is one such precedent-based but well recognised protector of Parliamentary sovereignty. This thesis examines the development of this independence in the context of the power to control government expenditure and, in the next chapter, the literature surrounding these issues is discussed.

CHAPTER 2

LITERATURE REVIEW

2.1 INTRODUCTION

As described in Chapter 1, this thesis examines evidence in relation to the development of the concept of public sector auditor independence. Analysis of the extant literature has confirmed the gap in the literature that is rectified by this work. It also confirms that this thesis does not simply resolve a parochial oversight in the literature but, rather, reinforces the importance of the ideas offered in response to the evidence gathered.

This chapter provides commentary following an analysis of the literature relating to public sector audit history, predominantly in Britain and Australia, and demonstrates that the literature generally follows three themes. These are (1) literature criticizing the general under-representation of public sector audit history and debating the merits of various methodological approaches; (2) teleological research tracing the histories of technical and legislative changes affecting public sector audit practice; and (3) modern contextual analysis of tensions in the relationship between public sector audit and Executive government, particularly in regard to the effects of the general wide-spread changes to public sector administration in the 1990s. These three themes are developed further below.

The constitutional place of Auditor General independence that developed in nineteenth-century Britain and Australia, and elsewhere in the British Empire, was critical to eventually delivering modern day Parliamentary sovereignty. In fact, the independent auditing of the expenditure of public funds is an essential constitutional safeguard (Funnell et al., 2012; Normanton, 1966).

Yet given that the topic of public sector audit history holds so much precedent for today's practice, it is perhaps surprising that it has received significantly less attention than the related topic of the development of audit independence in the private sector. For example, private sector audit independence was considered by, among others, Baker (2014), Chandler, Edwards, and Anderson (1993), Green

(2006), Lavin (1976), Lee and Md. Ali (2008) and Stevenson (2002). In this group, Lee and Md. Ali (2008) were the only authors who also referred to independence in public sector audit.

2.2 THEME ONE: IDENTIFYING THE UNDER-REPRESENTATION

The value of studying accounting history is well understood as providing a potentially rich resource of learned experience that may assist in preventing any repetition of past errors (Carnegie and Napier, 1996; Dean and Clarke, 2012; Robertson, 2010). However, there is a paucity of history relating to public sector accounting generally and auditing, whether public or private sector, specifically, notwithstanding the well-recognised benefits of such scholarship.

The general lack of scholarly attention paid to the history of public sector accounting has long been identified by researchers. Funnell (2007) explained this gap by identifying that universities predominantly teach private sector-focused accounting courses, while Carnegie and Napier (1996) noted that accounting historians had traditionally focused on private sector investigations. Returning to the topic more than a decade later, Funnell (2007, p. 268) found there was still "little evidence of any substantive interest...in the history of accounting and accountability in government". In his analysis of that accounting historiography published between 1995 and 2004, Funnell (2007) found that, of 1,384 papers identified as being concerned with some aspect of accounting history, the average proportion of those focussing on public sector accounting history was just 3.9%, while Moussalli (2008) noted a similar scarcity of scholarly descriptive work in the area of American government accounting. More recently, Bisman (2012, pp. 11, 16) analysed almost 190 articles and found "a continuing shortage of studies of financial accounting and auditing set in the public sector" despite "substantial relative growth" in the second half of that period (reinforcing similar findings made by Sargiacomo and Gomes (2011)).

Incidentally, private sector audit history is also generally under-represented (Matthews, 2006). Fleischman and Radcliffe (2005) examined the proliferation of accounting history research that occurred in the 1990s and identified that only two

out of 70 projects examined referred to audit history. Matthews (2006) also identified just two works on audit history: those of Power (1992), who focussed on the history of audit sampling; and Chandler et al. (1993), who examined the changing purpose of audit. An additional three relatively recent articles have been identified. Baker (2014) analysed and compared the development of the auditing profession in the United Kingdom and France; Green (2006) traced nineteenth-century development of the auditor's role in Canada; and Lee and Md. Ali (2008) studied the technical evolution of auditing in the nineteenth and twentieth centuries.

Public sector audit history is generally even further overlooked and much of what does exist "is limited in focus to professional and technical aspects of audit, with discussion tending to treat public sector audit in isolation from the sociopolitical context in which it operates" (English and Guthrie, 1991, p. 347). Calls for rectifying this under-representation of the history of public sector audit recognise the connection to constitutional and political power. For instance, Funnell (2007, p. 266) called for more research "because of the consequential importance of government, the constitutional imperative that government be financially accountable and the wealth of government material that is freely available to accounting historians". Sargiacomo and Gomes (2011, p. 253) and Gomes and Sargiacomo (2013, p. 439) also called attention to the existence of "vast archives" of public records.

The association of public sector audit and the constitutional imperative for government to be financially accountable was previously highlighted in the mid-twentieth century by Normanton (1966, p. vii), who understood an independent Auditor General to function as a fundamental cornerstone of government accountability and asked: "Without audit, no accountability; without accountability no control; and if there is no control, where is the seat of power?" Funnell (2007, p. 276) offered a further elaboration of the argument.

Fundamental to the distribution of power within government is the location of financial control. Indeed, contests between the executive and the legislature over control of, and accountability for, finances have been the defining feature of the evolution of the English Constitution. The "power of the purse" was parliament's main weapon by which it was able, over many centuries, finally to wrest power from the Crown.

Regardless, it is well-recognised that "public sector audit of the modern era arose, and exists...to enhance constitutional safeguards against Executive threats to individuals and their liberty in a democratic state" (Funnell et al., 2012, p. 362).

Additionally, while the teleology of the development of constitutional Westminster arrangements is laid at the door of the British Imperial Parliament, this narrative is somewhat simplistic when it is observed that the final maturation of the Westminster Parliamentary system of Imperial Britain—and the elements of maturation relevant to Auditor General independence—occurred concomitantly with the development of various colonial constitutional arrangements rather than before them (Gilchrist and Coulson, 2015). The next section considers this teleology.

2.3 THEME TWO: TELEOLOGICAL DESCRIPTIONS OF AUDITOR GENERAL INDEPENDENCE

The operation of precedent is fundamental to the constitutional and practical operation of many democratic governments' accountability and transparency processes in the post-Imperial world, while developing and maintaining a universal understanding of the role of such constitutional arrangements is critical in order to protect a democratically organised polity (Finn, 1987). As Justice Spigelman (2007, p. 60) warned, "indifference" can result in the context of such infrastructures "being undermined and rendered less effective over time", so that making connections between constitutional limitations and such things as Auditor General independence helps both to recognise the constitutional position of such arrangements as well as disseminate its importance. Further, pragmatism particularly drives political thought in young countries like Australia, making constitutional protection even more significant (Gilchrist and Coulson, 2015; Gilchrist, 2015).

Therefore, it is the connection of public sector audit history with other non-accounting history fields (including constitutional, political and Parliamentary histories) that enables the historical context of key institutional infrastructures to be understood and disseminated. Making such connections and increasing understanding is essential for the ongoing protection of British and Australian constitutional safeguards. Yet, despite these strong arguments reinforcing the

necessity of understanding the constitutional history of public sector audit, the available research is limited.

By and large, the teleologies examining Parliamentary sovereignty are concerned with examining Parliamentary, constitutional and public sector administrative developments. These histories reveal how the audit of expenditure decisions and records has been used throughout the centuries to establish political power, forcing actors to react to maintain and increase their control. In this context, the history of public sector audit is also political history—the story of power. Although the literature does focus on public sector audit and Auditor General independence prior to the mid-twentieth century, it is generally not comprehensive in its coverage of the topic and does not usually inquire into the complex socio-political demands driving the various reforms affecting Auditor General independence: the reasons "why".

Instead, the literature thematically tends to focus on the historical development of audit in the nineteenth century, in the much more general context of legislative progress and technical auditing advancements (the "how"). The constitutional place of public sector financial management, including the various forms of auditing controls, is usually only mentioned in passing despite its acknowledged importance for effective governance. The methodological approach is also usually teleological, fitting the description of the "traditional" accounting history paradigm as "essentially atheoretical and descriptive narratives" (Bisman, 2012, p. 9).

Carnegie and Napier (1996) were able to identify only one article on public sector audit. This argued that the nineteenth century implementation of Auditor General independence was not truly effective and was even perhaps introduced as a self-serving mechanism by the Executive itself (Funnell, 1994b). Similarly, Normanton (1966, p. 372) identified the system as "audit on behalf of the legislature and the executive, under the detailed direction of the latter". Funnell has since published further on public sector audit history, chiefly relating to Britain and Australia, and validated the constitutional place of public sector audit as well as the need for further historical study of the topic (as noted earlier) (Funnell, 1996c, 2007). Funnell also examined various nineteenth-century socio-political influences that strongly affected public sector audit reforms in Britain, including, in order of publishing, excesses in

British military expenditure in the 1830s (Funnell, 1997b), the political demands for economy in public expenditure (Funnell, 2004), and the impact of the financial and political strains placed upon Britain by the American War of Independence (Funnell, 2008).

In the Australian colonial context, Di Francesco (1999, p. 43) traced the nineteenth century development of public sector audit independence in each of the six British colonies, finding that they each followed their "own trajectory of independence, rather than emerging as a carbon copy of the British model". This is an especially vital aspect given the contemporaneous development of the Westminster Parliament with those of the settler colonies (Gilchrist and Coulson, 2015).

Histories of local government accounting and auditing practice in New Zealand, including some reference to concepts of auditor independence, were prepared by Colquhoun (2004, 2013). Dunn (2004) examined the meaning of government accountability in two Canadian jurisdictions via an examination of the political administrative history—particularly the evolution of independence in the public sector audit function in an era marked by government hostility to such extensions of audit powers. Finally, a very brief summary of the difficulties faced by seventeenth- and eighteenth-century public sector auditors in the young American colonies was provided by Dewar (1989). However, the concept of independence from Executive government was referred to only in the context of ethical dilemmas regarding the collection of public revenue.

More broadly, Parliamentary histories confirm the Westminster tradition of establishing Parliamentary public accounts committees and estimates committees as the overseers of Executive government expenditure. While the constitutional role of these committees as a check on government expenditure is frequently discussed, there is usually little discussion on their relationships with Auditors General. Exceptions include Butt (1969), Chubb (1952) and Tribe (1954), whose overviews of the origins of Parliamentary control over public expenditure clearly demonstrated that independent audit and Executive government accountability were fundamental to that political control. These three histories, along with the work of Normanton (1966), are perhaps the most useful studies to begin with for those seeking to make

connections between public sector audit history and its importance in ensuring government accountability today.

British constitutional histories (such as Keir, 1966; Maitland, 1911) also discuss Parliamentary control of Executive government expenditure. Nevertheless, references to the significance of Auditor General independence as part of that Parliamentary control are not extensive, although at least acknowledged. The focus in these histories is generally on the administrative processes of taxation, appropriations, estimates and the overall management of government accounting.

Public sector administrative histories provide central details regarding the operations of departments of state but seemingly little related to public sector audit. The most comprehensive of such histories are provided by Gladden (1972) and Chester (1981), with thorough studies of public administration and financial management in Britain from medieval times.

The Imperial Treasury department was arguably the most powerful entity in nineteenth-century Britain's public administration and research into its role has been substantial (for instance, see Bridges, 1966; Clark, 1960; Heath, 1927; Macpherson, 2013; Wright, 1969). Although discussion relating to the specific administrative relationship of audit and Treasury was published early in the twentieth century (Robinson, 1924), the transformation of public sector audit from an administrative Treasury function on behalf of Executive government to that of an independent, constitutionally fundamental part of Parliamentary control of the public purse is generally considered only in terms of the technical issues arising from legislative changes.

Developing an understanding of colonial administration is essential for appreciating the context of public sector audit throughout the nineteenth century. In Imperial Britain, the existence of multiple colonies and varying forms of colonial governments contributed considerably to the complexity of public sector audit purpose, foci and arrangements. However, while there is much valuable research examining the operations of the British Colonial Office (for example: Eddy, 1969; Weller and Cutt, 1976; Williams, 1943; Winch, 1965; Young, 1961), the financial

management within, and of, Britain's colonies is generally accepted as a relatively uncomplicated administrative function of Executive government.

There are few studies specifically examining nineteenth-century aspects of government financial management in Australia. Butlin (1953) provided a thorough study on the Australian monetary system and financial management development to the mid-nineteenth century, but did not refer to the function of public sector audit (see also Boot, 1998). Bunn and Gilchrist (2013) studied public sector audit in colonial Western Australia, 1828-1835, finding that it matched Di Francesco's (1999, p. 44) description of providing "a competent accounting function for the colonial administration" rather than "a rigorous check on the propriety of the Governor's expenditure". Spann (1960) provided the standard Australian text on public administration for decades, and others have studied specific government administrative operations in colonial New South Wales, such as the colonial Treasury (Lamb, 1962; McMartin, 1958a, 1958b, 1959, 1983, 1987), the economic role of the Commissariat (Beckett, 2012) and the operation of the Colonial Secretary's Department (Kingsmill, 1972). Eddy and Nethercote (1987) and Eddy and Nethercote (1994) provided further studies on various aspects of Australian public sector administrative history. Fletcher (1979) provided an overview of administrative (including financial) reform implemented in New South Wales under Governor Darling and Felton (2004) a history of the Tasmanian Department of Treasury and Finance. Each of these works focus on the Executive functions of financial management only, perhaps because the Parliamentary institutions were very immature. Yule (2002a) analysed the Victorian crisis in public finance 1853-1855, making an interesting connection between the role of the Auditor General and the events leading to the Eureka Rebellion in 1854. Similarly, Waugh (1998) provided some case studies relating attempts by early colonial governments (1860-1870) in New South Wales and Victoria to evade Parliamentary control of their expenditure.

There is also a small sub-category of existing literature forming what might be labelled official histories of a number of Australian offices of Auditors General. Such histories currently exist for five of the nine Australian jurisdictions, namely South Australia (Ralph, 1990); Queensland (Longhurst, 1995); the Australian National Audit Office (Wanna, Ryan, and Ng, 2001); Victoria (Yule, 2002b); and Tasmania

(Scripps, 2006). Smaller, less formal histories exist for the Western Australian office (Bowyer, 1966) and New South Wales (New South Wales Auditor General's Office, 1963). The history of the Canadian equivalent was researched by Sinclair (1979) and there is a brief analysis of the origins of public sector audit in colonial America (Dewar, 1989). The content of these histories, the larger of which were generally commissioned by the relevant office to mark some commemorative milestone, tend to be a reasonably straightforward compilation of available historical records with particular emphasis on the various Auditors General. Some do refer to the lack of independence as part of the accepted context of the times (Longhurst, 1995; Scripps, 2006; Yule, 2002b), albeit briefly.

Although the research undertaken by the authors recognised above is valuable for tracing how nineteenth-century legislative changes over many decades affected public sector audit in Britain and Australia, many questions remain about why the complex rationales concerning the concept of Auditor General independence were introduced in the first place, and extensive examination has confirmed there is very little research specifically focussed on this aspect of constitutional history.

2.4 THEME THREE: MODERN CONTEXTUAL ANALYSIS

Public sector audit today extends far beyond the traditional provision of financial assurance. This extension has its provenance in the broader, ubiquitous New Public Management (NPM) reforms introduced initially in Europe (Hood, 1991, 1995) and extended to Australia, Great Britain, New Zealand and other OECD countries (Guthrie, 1998; Hood, 1991; Nagy, 2002). When public sector leaders aimed to reduce the gap between the public and private sectors' modes of operation, NPM required viewing public accountability through a different lens (Pilcher, 2011). John J Glynn and Murphy (1996, p. 126) demonstrated that, in the United Kingdom, the reform process tended to emphasise "managerial accountability at the expense of political accountability". This included in relation to accounting and auditing.

The implementation of these NPM reforms generated a plethora of scholarly research and discussion, mainly focusing on contemporaneous commentary and research. It was highlighted as early as 1966 that "important new developments" were taking

place in France, Germany, the United States and "countries beyond the Iron Curtain" regarding audits of administrative efficiency and of state enterprises, and the use of "State audit as an auxiliary of economic planning" (Normanton, 1966, p. xv). Although the limited historical considerations of this aspect of public sector audit research rarely extend further back in time than the 1970s, literature reviews published in the 1990s and since 2000 on public sector audit indicate there was a growing interest not only in the technical implementation and effects of introducing accrual accounting, but also on the socio-political context and transformative effects of extending the traditional Auditor General mandate of financial audit into areas of government efficiency and value for money (for example, see Carnegie and West, 2005; English and Guthrie, 1991; Funnell, 2003; Parker and Guthrie, 1993; Pilcher, 2011).

In Australia, it took a decade to clarify confusion over the 1979 legislative requirement for the Commonwealth Auditor-General to implement efficiency audits (Glynn, 1989). Potter (1999, 2002) provided critical analyses of rationales behind the formulation of new accounting regulations in the Australian public sector.

In examining Auditor General independence specifically, Funnell (1994a, p. 24) noted that "interpretations of audit independence have been the target of capture by powerful interest groups....There is no absolutist, apolitical meaning to independence. It is a socially constructed belief". Funnell (1996a, p. 109) provided examples that described how the independence of the Australian Auditor-General, in relation to the Commonwealth government of Australia, was interpreted as substantive but proved to be conditional—enabling "very extensive Executive intrusions in public sector audit accepted largely as benign and untainted by political interests".

During the 1990s, discussions centred on what independence really meant in practice (Barrett, 1996; Funnell, 1994a, 1994b; Parker and Guthrie, 1993; Stone, 1993), perhaps as a result of the poor governance practices endemic in Australia particularly during the 1980s (for instance, see Sykes, 1994; Taylor, 1995) and also the previous two decades. Analysis was also conducted by Parliamentary activities such as committees of enquiry and included consideration of Executive activities from a

probity perspective (for example, see Kennedy, Wilson, and Brinsden, 1992; Nicoll, 2005; Taylor, 1990). Comparisons of the various public sector audit legislative frameworks provided rich sources of data for researchers interested in issues of government accountability. These included analyses comparing jurisdictions undertaken by de Martinis and Clark (2003) and an examination of the relationship between Parliaments by Coghill (2004). More recently, the legislative frameworks for Auditors General in each Australian jurisdiction and in New Zealand were compared by Pearson (2009) and Robertson (2009, 2013), who found that still more could be done to protect Auditors General from undue Executive government influence and to safeguard their independence, as did the Western Australian Joint Standing Committee on Audit (2016).

Globally, the International Organisation of Supreme Audit Institutions (INTOSAI) (1998, pp. 3-5) issued declarations on audit independence, specifying eight core practice-focused principles generally recognised by SAIs as "essential requirements of proper public sector auditing".⁵ Subsequent INTOSAI editorial comment supporting these principles was provided by Otbo (2009) and Norgren (2010). Comparisons across international jurisdictions were made by Kiraka et al. (2002) and Stevenson (2002). Both studies found a considerable diversity of the provisions for Auditor General independence and called for their further strengthening. On a slightly different tangent, Bemelens-Videc (2003) reviewed the methods and standards by which international public sector audit institutions have judged the collaborative governmental arrangements in public services introduced as part of NPM.

Audit independence is now considered to be vital for all modern audit activities, regardless of the economic sector in which the auditee organisation operates (for example, see Good, 2007; Wanna, 2006; Waugh, 1998). Indeed, the *Auditing Standard ASA 200* requires auditors in Australia to "comply with relevant ethical

⁵ In summary, these 8 principles are as follows: 1. Existence of a constitutional/statutory/legal framework. 2. Independence of SAI heads, including security of tenure and legal immunity in the discharge of duties. 3. A sufficiently broad mandate and full discretion in the discharge of SAI functions. 4. Unrestricted access to information. 5. The right and obligation to report on the SAI's work. 6. Freedom to decide the content and timing of audit reports and to publish and disseminate them. 7. Existence of effective follow-up mechanisms for SAI recommendations. 8. Financial and managerial/administrative autonomy with appropriate resourcing.

requirements, including those pertaining to independence" (Auditing and Assurance Standards Board, 2009, p. 18), and the *APES 110 Code of Ethics for Professional Accountants*, amended in May 2013 to clarify that its requirements are applicable to Auditors General and their senior officers, includes requirements and definitions for independence of mind and in appearance (Accounting Professional and Ethical Standards Board, 2010).

The endurance of the Auditor General's role in helping to ensure accountable and open government and the impact of political actors has also been considered. Ramkumar (2009) examined the findings of a survey of government budget transparency in 85 countries, and found that 80% did not provide enough information to hold the government accountable and 50% provided such minimal information they were able to hide unpopular, wasteful, and corrupt spending. Because the public sector implements the Executive's policy decisions, thereby operating as its administrative arm, the Auditor General inevitably also functions as a de-facto check on the activities of the government. McPhee (2008, p. 72) described this function as providing an "outcome" of "stakeholder confidence in the integrity and performance of an organisation" while Mulgan (2008, p. 355) has written extensively on this responsibility.

While a further and rich vein of examination relates to the inevitable tension between the Executive and the Auditor General, limited work has been undertaken in this area. Where such tension has been examined, the research often focusses on specific events with the potential to reduce Auditor General power. One notable example in Australia is the (ultimately unsuccessful) 1997 attempt of the then-Victorian Premier, Jeff Kennett, to effectively disband the Office of the Auditor General and privatise the role (for detailed analysis on this event and for other examples, see English, 2003; Funnell, 1996a, 1997a; Good, 2007; Nagy, 2002; Wanna, 2006).

In summary, the extension in the late twentieth century of Auditor General investigative powers beyond traditional financial accountability, into areas of government efficiency and effectiveness, has generated some scholarly debate on the constitutional importance of the role and in legislative strengthening of Auditor General independence across the globe. While the examination of modern public

sector audit is extraneous to this thesis, the considerable work completed here reinforces the criticality of Auditor General independence in the present day and supports its historical development as a vital topic of study for scholars.

2.5 CONCLUDING REMARKS

This chapter has assessed and examined the extent of public sector auditing history, with a particular emphasis on Auditor General independence, in the available scholarly literature. Examination of the evidence found that public sector auditing historiography can be located in three essential themes: (1) identifying the under-representation and the value of public sector audit history (a grouping to which this thesis belongs); (2) the teleology of Auditor General independence; and (3) modern contextual analysis.

Late twentieth-century tensions between public sector audit independence and Executive government accountability (as a result of NPM reforms) have generated discussion on the significance of the relationship between independent Auditors General and Parliaments in governance systems (Coghill, 2004; Parker and Guthrie, 1993). However, the analysis undertaken in this chapter demonstrated that surprisingly little scholarly research has been conducted exploring the connection between increasing Parliamentary demands for stronger controls over government expenditure in the nineteenth century and the place of Auditor General independence. Such analyses of the topic as do exist tend instead to focus on the "evolution" of public sector audit by tracing legislative changes and are useful for showing how the transition of the Auditors General role occurred, but not the complexity of the socio-political context considering more fully the "why".

However, there is wide-ranging research identifying the need for public sector audit history examination, as it is crucial for educators and policy makers to understand the history and precedent in order to properly inform and defend current public sector audit practice (Gilchrist and Coulson, 2015; Pilcher et al., 2013). Without such an appreciation, essential controls in constitutional arrangements in Britain and Australia, as well as elsewhere in developed democratic countries, might appear instead as merely bureaucratic intrusions generating inefficiencies or ineffectiveness.

It is the intent of this thesis to address the origins of Auditor General independence in the context of its relationship with Parliamentary sovereignty. In the next chapter, a methodological and design framework for the research paradigm of this work is outlined.

CHAPTER 3

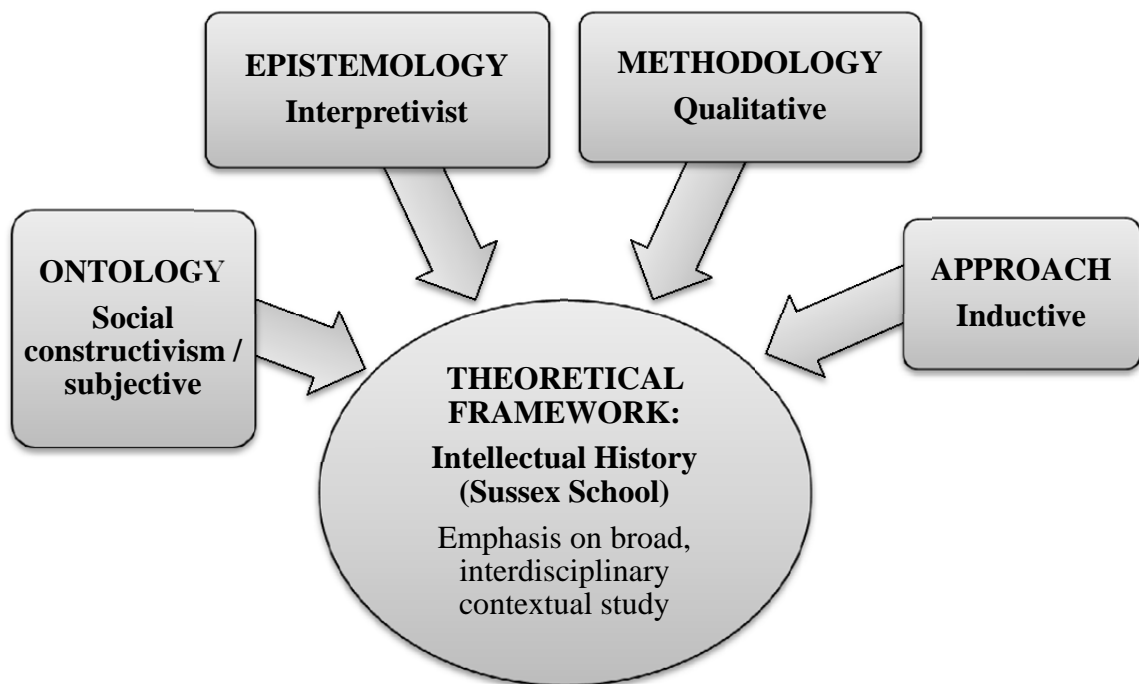
METHODOLOGY AND THEORETICAL APPROACH

3.1 INTRODUCTION

Prior to examining the evidence itself, it is necessary to establish the framework within which the evidence is evaluated. This chapter explains the research paradigm adopted for this thesis, including the methodology and theoretical framework, the rationale for adoption and the specific assumptions about the nature of the past under examination in this contextual intellectual history in the Sussex School tradition.

Figure 3.1 (below) provides a diagrammatical overview of the research paradigm discussed in this chapter.

Figure 3.1: Research Paradigm



3.2 METHODOLOGICAL CONSIDERATIONS

The adopted ontological position very much takes a subjective approach, understanding that the social reality and entities of the mid-nineteenth century have been constructed from the perceptions and actions of the people in that time period (Saunders, Lewis, and Thornhill, 2012). There is also an expectation that social reality is subject to change and that there may be multiple interpretations of that reality. In consequence, the epistemological approach is that of interpretivism, defined by Saunders et al. (2012, p. 137) as crucially requiring the researcher to adopt an "empathetic stance....to enter the social world of our research subjects and understand their world from their point of view".

In this vein, to answer the thesis questions regarding nineteenth-century concepts of Auditor General independence, it is necessary to enter the social and political world of colonial audit (via methods of archival research and document analysis) in order to understand the social reality of colonial government administration as it actually existed. It is vital that, as far as is possible, the understanding of public sector audit practice in the nineteenth century is derived from the point of view of those experiencing it at the time, rather than being interpreted via any modern set of cultural values or meanings.

The overarching research approach is inductive, in that the rich empirical data identified in the archival research (the first phase of the research design) will enable the generation, in the second phase of the research design, of a theory or a new conceptual framework describing the trajectory and rationale for the development of Auditor General independence in the nineteenth century. As noted by Saunders et al. (2012, p. 146), the philosophy of inductive research is "particularly concerned with the context in which such events were taking place", and certainly the data analysis phase could not be completed without recognising that the social reality of the Swan River colony consisted of many contextual interpretations.

Obviously, too, the methodological approach in this thesis is qualitative (in keeping with the interpretivist epistemology and inductive approach), examining the contextual relationships of public sector audit in the nineteenth century.

3.3 THEORETICAL FRAMEWORK

Having examined potential theoretical groundings extant in other studies, the literature review of accounting history for this thesis was unsuccessful in identifying any precedent of methodology or theoretical framework (Jupp, 2006; Lewis-Beck, Bryman, and Liao, 2004; Merriam, 1998; Sinclair, 2007). The negotiations of power in the relationships between Auditors General, Executive government and Parliaments were considered too complex for the effective application of agency theory, consistent with the difficulties pointed out by Nagy (2002). Although a popular choice for "providing insights into the processes of organisational change" (Nagy, 2002, p. 34), the application of institutional theory to the historical constitutional role of the Auditor General was considered potentially too inflexible for the contextual work of this thesis.

However, the review did reveal consensus for researchers to apply their own choice of theory, if they believed it best suited to answer the particular query (Bisman, 2012; Carmona, Ezzamel, and Gutierrez, 2004; Carnegie and Napier, 1996; Funnell, 1996b). As such, a contextual intellectual history using a "Sussex School" framework was considered to be the most appropriate theoretical approach for addressing the research questions here.

The work of an "intellectual history" as per the Sussex School is related to the history of ideas and of political thought. Such an approach to history seeks understanding through examining the broader historical contexts of the particular idea or concept under consideration—in this case, the origins of Auditor General independence. These contexts may be literary (the text), social and/or cultural. The appellation "Sussex School" of intellectual history has been used to denote the innovative work of Sussex University scholars Donald Winch, John Burrow and Stefan Collini (Collini, 2013; Moore, 2010; Waterman, 2002; Winch, 2010, 2014). In turn, the Sussex School had its antecedents in the work of Dunn (1968) and Skinner (1969) (Pocock, 2004; Waterman, 2002).

The Sussex School of intellectual history is ideally suited for the interpretivist epistemology, inductive approach and qualitative methodology used in this thesis and

represented in Figure 3.1. The contextual aspect of an intellectual history is particularly important and useful here. Moore (2010, pp. 78-79) defined contextualism as "placing a text, passage or conversation in the context in which it was expressed to gain a richer and more nuanced understanding of the idea or ideas embedded in that text, passage or conversation". The emphasis on broad, interdisciplinary contextual study means the research and analysis are not restricted to merely one prism, for example, economic, social, architectural or even political. Instead, the research is able to incorporate all of these aspects—and others—where relevant and locate data from a disparate range of sources.

The Sussex School approach seeks to position the historical narrative in its own time, and this is certainly the approach intended in this thesis (Winch, 1996). The objective of intellectual historians has further been described as the attempt to "recover the thought of the past in its complexity and...as far as possible in its own terms" (Collini, 2013, p. 2). Such a historiography is very different to the traditional realist approach that certain texts are "part of a canon that reflected timeless and universal truths (that is, the great text tradition)" (Moore, 2010, p. 81). In fact, another strongly held characteristic of the Sussex School is a rejection of such a teleological interpretation of history, where events are interpreted as inevitably "evolving triumphantly towards what dominates in the present" (Moore, 2010, p. 91). These types of histories have been described as cutting a "vertical" slice through the past, whereas the Sussex School approach tends to take a "horizontal" slice, "exploring the idioms and preoccupations of a past period as they manifest themselves in thought and discussion about various issues that cannot readily be assigned to current academic pigeon-holes" (Collini, 2008, para. 9).

Other Sussex School characteristics include that the necessary accumulation of detail required by such an intellectual history tends to manifest as narratives in essay or book formats (Moore, 2010). Practitioners tend to avoid excessive criticism or praising of an historical text, instead providing "sympathetic readings" that understand the context in which they were produced (Moore, 2010, pp. 89-90). There is strong support of inter-disciplinary cooperation, partly because it is conducive to contextualism and assists in avoiding teleological narratives, and partly because "modern disciplinary boundaries do not apply to the boundaries within which the

authors of past texts operated" (Moore, 2010, p. 92). All of these defining characteristics are readily seen in the thesis format, and in the connections made here between public sector audit history, political and Parliamentary history, and public sector administrative history.

Sussex School historians understand it to be possible to examine an historical text and reconstruct the author's intent, even though "the 'past is another country' and the historian is 'inescapably the child' of his or her time" (Moore, 2010, p. 92). Similarly, practitioners agree that current historians may have knowledge enabling them to consider past ideas in ways that may not have been possible for the historical authors themselves.

Adopting a contextual intellectual framework for this thesis, with all the attendant Sussex School characteristics described above, will enable reconstruction of the historical context (the "horizontal slices" of history) surrounding the concept of Auditor General independence in the nineteenth century as evidenced in the Swan River colony of Western Australia. The approach allows the exploration, analysis and narrative description of key concepts in terms of the multiple contemporary cultural contexts of those writing about them at the time, and thus facilitates the development of a conceptual theoretical model regarding the Auditor General's operating framework.

3.4 RESEARCH DESIGN AND SCOPE

As discussed above, the approach for this research is a qualitative and inductive intellectual history in line with the characteristics of the Sussex School. The research design consisted of two phases:

- Phase One (data collection). Exploratory, using archival research methods to locate data and document analysis to generate data. The term "data" is used in the sense described by Bowen (2009, p. 28) as "excerpts, quotations, or entire passages". Data identified as being of potential relevance to the thesis were then entered into a database, preserving chronological connections to facilitate the contextual exploration of the second phase. During Phase One,

almost 2,000 separate datum items were identified and entered into the thesis database. Specific archival sources are listed in the References.

- Phase Two (data analysis). Descriptive and analytical. The collected data were analysed using a combination of methods, including content analysis and narrative analysis, to verify and triangulate the collected data, and to generate the outcomes: a contextual narrative regarding the constitutional origins of Auditor General independence in the nineteenth century (presented in the subsequent chapters of this thesis).

In brief, Chapters 4-6 provide a contextual background demonstrating the increasing use of independent audit by the British Parliament as a mechanism for enabling a check on Executive government expenditure. Chapters 7-9 present a case study narrative illustrating the struggle to implement the principles of Auditor General independence in the British colony in Western Australia.

The scope of this research analysis was restricted to one jurisdiction in a critical time frame: the nineteenth-century Western Australian colonial audit office, in the context of contemporaneous developments in Imperial government. This limitation was necessary to maintain a tight focus on the thesis objectives within the time constraints and amount of potential data.

3.4.1 Research phase one: data collection

The initial phase of the research for this thesis was exploratory, searching for suitable data contained in nineteenth-century documents. There were two principal research methods used, namely, archival research and document analysis. These are discussed below. The historical nature of this thesis limited the available approaches, as other qualitative research methods—such as interviews or observation—were not viable (Merriam, 1998). The effectiveness of such archival research and document analysis for identifying and tracing ideological origins and development in the field of government administration has been demonstrated by the work of J S Battye (1924), Eddy (1969), Funnell (1996c), Statham-Drew (2003) and Young (1961), amongst others.

Archival research

This thesis privileges data located using archival research into nineteenth-century government correspondence and reports, Parliamentary reports and debates, and newspaper editorials and articles regarding the role and work of the Auditor General (particularly in colonial Western Australia). Archival research enabled identification of multiple sources of empirical data in the original documents, records and correspondence of the Audit Office and other government departments of the Swan River colony and Britain (see References for details).

An archival research strategy is useful for providing new knowledge and interpretations to answer research questions focussing upon the past and changes over time (Saunders et al., 2012). The study of historical records contained in archives—such as public sector correspondence, government reports (both official and non-official), Parliamentary debates, newspaper editorials and public arguments—provides evidence of actual administrative process, as the data were originally created as part of daily organisational activities (Corti, 2003; Saunders et al., 2012). This means, of course, the actual data analysis is secondary. Nevertheless, when used in an archival research strategy the historical records are valuable precisely because they are "part of the reality being studied" (Saunders et al., 2012, p. 179). The location, evaluation and systematic analysis of data from archival sources enable their use

for purposes other than those for which they were originally collected—to ask new questions of old data, provide a comparison over time or between geographic areas, verify or challenge existing findings, or draw together evidence from disparate sources to provide a bigger picture. (Corti, 2003, p. 20)

In fact, understanding the place of these historical documents within their own contemporary cultural context is how historians of the Sussex School approach the task. It facilitates access to the social and political milieu of the time ("eavesdropping on conversations of the past" (Winch, 1996, p. 28)) and enables re-creation of that broader cultural context (Moore, 2010).

The collection process for archival research is unobtrusive and there are high levels of data stability—"the investigator's presence does not alter what is being studied" (Bowen, 2009, p. 31). Other significant advantages of using archival research include the possibility of longitudinal studies, the permanence of the data and the probability of obtaining comparative and contextual data for triangulation and analysis (Saunders et al., 2012). The third of these factors was especially useful here, as identified data frequently appeared in duplicate sources and could be directly compared, for example, to ensure transcription accuracy. In addition, the collection process incorporated constant assessment of the overall suitability of data to the research objectives. Following the recommendations suggested by Saunders et al. (2012) for evaluating secondary data, the collection process included identification of source authority and reputation (to assess data reliability and validity), and consideration of data coverage and measurement bias.

The use of secondary data may present some potential disadvantages, including that they may not suit the intended purpose, access may be difficult, and a limited control over quality (Saunders et al., 2012). None of these factors were a hindrance to the work of this thesis. The accessibility of relevant historical records was, in fact, a distinct advantage. A wealth of material was publically available as scanned documents accessible either on microfilm or electronically via library and government websites. The presentation of evidence enabled a horizontal, chronological data analysis. The original presentation, aggregation and definitions of the documents were suitable for data collection. The quality and coverage of historical records examined appeared to be reasonably complete and readily available for analysis.

Document analysis

Document analysis was the method used to generate the primary data for this thesis after the archival research had identified potential data sources, as described above. It has been described as "a systematic procedure for reviewing or evaluating documents" within their historical context, enabling the researcher to find, select, appraise and synthesise the data they contain (Bowen, 2009, p. 27). The method supports archival research by enabling the initial evaluation of the authenticity,

purpose and intended and actual audience(s) of identified data within its historical context. As a research method, document analysis is particularly applicable to qualitative research as it has the advantages of being efficient in selecting data for analysis, cost-effective, unobtrusive and enabling broad coverage over many events, settings and times (Bowen, 2009).

Potential limitations of using document analysis are that the documents themselves may be difficult to retrieve, may not contain sufficient detail for the research agenda, and the selection process may be biased (Bowen, 2009). As noted above, the documents needed for this thesis were readily accessible. To combat the other limitations, the process undertaken for this thesis in selecting documents incorporated a critical and cautious approach (described below), acting objectively and sensitively in order to successfully generate the expected empirical knowledge (Bowen, 2009). Document analysis was also used to determine the meaning of the document, the original information source (first-hand experience or secondary sources), the document's purpose (both overt and covert), author and intended audience and its contextual contribution (topic coverage comprehensive or partial; balanced or uneven) (Bowen, 2009).

The process included continuous and careful evaluation of the document authenticity, validity, credibility and reliability (Colquhoun, 2004; Corti, 2003). The assessment of selected documents also included a constant querying of gaps, in order to identify absent voices. For example, it was self-evident that well-educated, socially respectable and wealthy older males produced most of the available British and Australian government records in the nineteenth century and the first-hand views of women, aboriginal Australians, servants, children and labourers were rarely exposed. Nevertheless, this limitation was not considered a risk as the cultural debates and decisions occurring around the role of the Auditor General and the constitutional status of government were almost entirely held and made by men.⁶ Therefore, the motivations they had with respect to establishing an independent Auditor General were critical.

⁶ Women and minority groups were not employed as officers of government, were not eligible to vote or participate in Parliamentary processes and did not appear to contribute to the pertinent debates via personal correspondence to government officials or newspaper editors.

Finally, confidence in the selected data was further improved by ensuring the document analysis process was broad enough to include a multiplicity of viewpoints and sources, albeit within the limitations noted above (Colquhoun, 2004). A large-scale collection, such as that used in this thesis, assists in ensuring adequate representation of sources while also supporting data triangulation and evaluation against other sources of information (Bowen, 2009; Colquhoun, 2004).

The actual process of document analysis followed the iterative practice outlined by Bowen (2009, p. 32): a preliminary superficial examination, known as "skimming", to identify potentially useful data, followed by a more thorough reading to confirm the data usefulness, and transcription and entry into a database.

Preliminary skimming

Initial preliminary scanning of documents identified in the archival research enabled a bulk capture of those containing potentially relevant data. All data sources were searched using specific parameters, such as key words and dates, by visual scanning (reading). Documents containing potentially significant data were generally found in either microfilm, electronic or paper-based formats. Microfilm records were visually scanned on-site and potentially useful documents were converted to PDF files for subsequent secondary reading. Electronic and paper-based records were similarly skimmed and potentially useful data was tagged for secondary reading.

Secondary reading

This step included cross-referencing to data already captured, identification of potentially relevant themes and culling of unsuitable material. The more thorough secondary reading of the PDF files and the tagged search results confirmed if the data contained in the selected documents were of potential relevance to the thesis. If so, it was transcribed and entered into the thesis database.

Transcription and entry into database

Formal capture of selected data occurred by transcribing the document text and entering it into the thesis database with appropriate indexing, including date of creation and source information. This database was a crucial research tool for the complex data analysis undertaken in the second phase of the thesis. Microsoft Word and Excel were used as the database platform because of their general availability and compatibility with computer systems.

The primary index used was the date of the document's original creation, rather than the source location, author or thematic content. Connecting the data from disparate sources into one common time-line in this manner facilitated the re-creation of original chronological connections. Thematic trends could then be detected in the correlations revealed between the cause and effects of events—a critical aspect of subsequent data analysis work in Phase Two. This approach also facilitated data verification and cross-checking, as it created linkages between information from different sources.

The transcription process carefully maintained original spelling and punctuation, both to minimise the risk of interpretative and transcription errors and to maintain, as much as possible, the nuances of the original author's language and terminology. This care is the preferred approach of intellectual historians, attempting to recover the complexity of the past in its own terms (Collini, 2013). It is essential that any development of contextual understanding be firmly grounded within the archive, that is, "within an understanding of the specific context in which the object of our research emerges and operates" (Carnegie and Napier, 1996, p. 8). Such contextual understanding enables a more thorough understanding of the various covert cultural contexts in which the document was originally written. For example, routine correspondence frequently contained abbreviations, especially in the salutation and sign-off, whereas correspondence of a more important nature, such as formal reports to the Secretary of State for the Colonies from the Lieutenant Governor, were less likely to contain abbreviations. Likewise, the use of a recipient's complete formal title was more common when the document contained information with a significant value to the author (such as a request for an increase in salary), or when there was a

large social disparity between the status of the author and the recipient. Careful transcription also facilitated interpretation of the meaning and usage of now-obsolete terminology, which became clear when the cultural context was broadened by finding the same phrase in multiple documents. Appendix 2 provides examples illustrating the document analysis process used in this thesis.

3.4.2 Research phase two: data analysis

In the analytical and descriptive second phase of this thesis, the material contained in the database (almost 2,000 items) was analysed using a combination of methods described below. It was at this point in the research that data could be triangulated, key themes identified and a new contextual narrative begin to be developed. Content analysis and narrative analysis were the principal methods used in this second phase.

Content analysis is defined as "the process of organising information into categories related to the central questions of the research" (Bowen, 2009, p. 32). It is particularly useful for recognizing patterns in the data and identifying themes, allowing the data to be "examined and interpreted in order to elicit meaning, gain understanding, and develop empirical knowledge" (Bowen, 2009, p. 27).

Narrative analysis was used to synthesise the archival data into a new narrative description and conceptual model regarding the Auditor General's operating framework. In this context, the research method operated precisely as defined by Saunders et al. (2012, p. 577) by incorporating the pertinent data, "collected from different participants, to create a new narrative that incorporates all of their stories into one account" whilst preserving its integrity and value.

Providing far more "than reproduction of historical materials or chronology of events", narrative analysis has been recommended as a central method for the accounting history discipline (Carnegie and Napier, 1996, p. 14). It is particularly useful for producing histories that do not tell just a "simple story of progressive improvement", but which instead "emphasise the political roles of accounting through its ability to constitute social relations" (Funnell, 1998, p. 156). The political context of Auditor General independence is exactly the narrative attempted here.

The thesis database was imported into NVivo, a qualitative data analysis software package, and the rich text data coded to facilitate the organisation "into major themes, categories, and case examples" (Bowen, 2009, p. 29). The data were further interrogated for the frequency of relevant terms. Within their historical context, the causality between events (or not) was identified and comparisons made with the Imperial experience and, to a limited extent, that of other Australian colonies. The themes and categories were interpreted and analysed. Using this process, the thematic connection was made regarding Western Australian constitutional development and the origins of Auditor General independence and the new contextual narrative developed.

3.5 ETHICAL CONCERNS

Ethics approval was not required as the research did not require any involvement with animals or humans. Publicly and freely accessible archival documents provided the necessary data.

3.6 RISK ASSESSMENT

The combination of methods described above guarded against the potential risk of compiling a simple historiography of anecdotal evidence, because the scale of the qualitative archival research was large and comprehensive and also because the database provided cross-checking controls. Data were available from a multiplicity of viewpoints from highly informed contemporary participants (such as government officers, Parliamentarians and newspaper editors/reporters). Data were also continually assessed during the collection process for their validity.

These factors facilitated data triangulation and minimised the potential risk of observer bias. Similarly, the extensive reliance on primary documents and the care taken to transcribe original spelling and punctuation reduced potential interpretative errors and mis-readings. Tertiary documents also contributed necessary contextual background.

3.7 CHAPTER SUMMARY

A review of potential theoretical groundings in other relevant literature identified a consensus that researchers of audit history were free to adopt the approach considered most suitable for their particular query. In this chapter, justification was provided for the adopted research paradigm and theoretical approach: a qualitative and inductive intellectual history in the tradition of the Sussex School. Such a contextual intellectual framework allows the exploration and analysis of the historical contexts around the origins of Auditor General independence. Critically, it supports the development of a new narrative description and conceptual model regarding the Auditor General's operating framework.

The two-phase research design was also outlined. The extensive data identified during the initial phase of the research and entered into the thesis database were analysed in the second phase and used to synthesise the findings presented in the subsequent chapters of this thesis.

The association between public sector audit and political power is demonstrated in the following chapter, via a contextual overview of the British Parliament's increasingly successful efforts for direct financial control over Executive government expenditure. The narrative links the history of public sector audit with the history of Parliament and with other political and social constitutional reforms aimed at establishing a more representative and accountable government.

CHAPTER 4

POLITICAL POWER AND THE PUBLIC PURSE

4.1 INTRODUCTION

Political power is reliant on possessing control of public expenditure, described in 1891 by Gladstone as the "power of the purse" (Wehner, n.d.). Ongoing disagreements between the British Parliament and the Crown over financial control, including the Glorious Revolution of 1688, have had lasting impacts on the constitutional principles and separation of powers operating in democratic governments today.

Indeed, contests between the executive and the legislature over control of, and accountability for, finances have been the defining feature of the evolution of the English Constitution. The "power of the purse" was parliament's main weapon by which it was able, over many centuries, finally to wrest power from the Crown. (Funnell, 2007, p. 276)

These clashes are well reported elsewhere (see, amongst others, Bagehot, 1872; Butt, 1969; Chester, 1981; Keir, 1966; Macaulay, 1848; Maitland, 1911).

Yet financial control is only possible when there are effective systems of accountability in place, both for issue and expenditure. Further, financial accountability is impossible without the existence of independent audit. In providing a check on the financial activities of government and an assurance to Parliament, the Auditor General's role is critical to Parliament retaining control over public expenditure. Mackenzie asked "Without audit, no accountability; without accountability no control; and if there is no control, where is the seat of power?" (Normanton, 1966, p. vii). Public sector audit, therefore, is the essential link in ensuring and in maintaining Parliamentary sovereignty.

The transition to an independent Auditor General occurred in Britain and in each of the British colonies in Australia during the same 100-year period. The Canadian *Audit Act 1878* was also passed in the late nineteenth century (Funnell, 1994a). The implementation by Parliaments of an independent Auditor General almost inevitably

followed the enlargement of electoral franchises and the formalisation of responsible government, with political power being transferred from the Executive to the Parliament. Consequently, the history of public sector audit is shown in this chapter as fundamentally linked with Parliamentary and constitutional history.

While important, these financial management reforms in Britain did not effect any real change in the subordinate status of the public sector auditor to Treasury until after 1850 (Chester, 1981; Chubb, 1952; Edwards, 2011; Funnell, 2004, 2008; Gladden, 1972; Keir, 1966; Young, 1961). Until the mid-to-late nineteenth century, public sector audit continued to be understood as merely a part of the Executive's overall financial administrative system, functioning to assist the Imperial Treasury to determine financial certainties (Funnell, 1994b, 2004). Evidence of the Imperial Treasury's specific and technical control over colonial accounting requirements in 1847 and 1826 can be found in Appendices 5 and 6; these also provide an overview of the complexity of the colonial auditors' daily tasks.

4.2 HISTORICAL OVERVIEW: BRITAIN

In Britain, as the role of public sector audit shifted, the assurance that public money was being spent in accordance with Parliamentary appropriations became the responsibility of the Comptroller and Auditor General (Chester, 1981). This officer was independent of Executive government and responsible to Parliament, but the role was not created until the passage in 1866 of 29 & 30 Vic., c.39—*Exchequer and Audit Departments Act 1866* (Imp.). Even then, independence was not total (Funnell, 1994a).

Of course, the *Exchequer and Audit Departments Act 1866* was far from the only legislative reform to the public sector audit function in Britain. Searching for key legislative reforms to the public sector audit function in Britain in the five centuries between 1200 and 1899 identified a total of 60 acts, more than half of which were passed after 1750 (see Appendix 3). To reveal more of the political struggle for control of the public purse in Britain, the search for data on public sector audit reform history was broadened to non-accounting fields including constitutional law, political and Parliamentary histories. This search identified an additional dataset of

84 actions (failed bills, Parliamentary debates, official government reports and instructions, Treasury minutes, Parliamentary committee reports and recommendations, and official government correspondence) that occurred between the thirteenth century and the first few decades of the twentieth century.

These additional 84 actions were collated into the original data set of 60 legislative actions. Analysis of the total data set confirmed the nineteenth century to be the predominant focus of action in Britain. Between 1600 and 1921, the average number of Parliamentary actions affecting public sector audit per half-century between was just 13. Yet in the half-century 1800-1849 there were 41 actions (16 legislative actions and 25 other measures). In the almost 400 years between 1200 and 1599, just 22 successful Parliamentary actions affecting public sector audit in total were identified.

4.2.1 Data analysis: effectiveness of parliamentary actions affecting public sector audit

Not all of these actions relative to public sector audit were effective in increasing Parliamentary control. To analyse the effectiveness over time, each item in the complete data set was categorised, or coded, according to an assessment of how successful it had been at strengthening Parliamentary control. Each assessment was made following extensive research, including locating the original archival action (where possible⁷) and collating the information with secondary data such as comments and analysis from historians and other researchers. The sum total of this information on each action was considered before applying the following coding query: "In terms of Parliamentary attempts to increase its power over the Executive via control of public money, was the action":

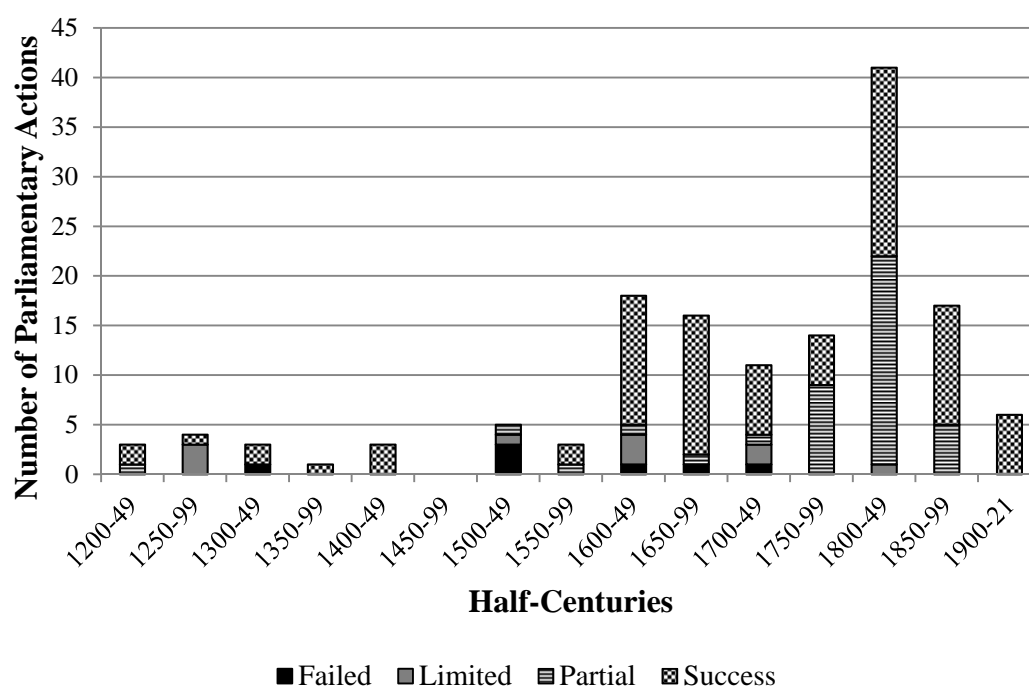
- Successful (for example: passage of an empowering piece of legislation; an increase of reporting to Parliament; implementation of independent auditing; an extension of appropriation and expenditure control)

⁷ The contents of several archaic pieces of legislation could not be found, apart from their titles.

- Partially successful (for example: implementation of a Parliamentary committee or inquiry; tabling of a report that recommended increasing Parliamentary control)
- Limited (for example: increased the Treasury control of the financial processes in a manner that did improve oversight, but which did not increase the power of Parliament)
- Failed/Unsuccessful (for example: failed bills; passage of legislation that decreased Parliamentary control).

The results are shown in Figure 4.1 (and Appendix 3) and demonstrate that the number of successful and partially successful actions affecting public sector audit increased significantly after 1600, compared to those that had a limited or negative (unsuccessful) effect. In the 400-year period from 1200-1599 there were 14 initiatives that were successful or partially successful in increasing Parliamentary power over the Executive via control of public money, an average of about one every 28 years. In the 200-year period from 1600-1800 there were 51 initiatives that were successful or partially successful, equating to about one every four years. In the nineteenth century there were 57 such actions, or about one every two years.

Figure 4.1: Number of Parliamentary actions affecting public sector audit, Britain, 1200–1923, by half-centuries.



In summary, the above analysis provides strong evidence supporting the argument that the British Parliament was increasingly successful in obtaining control over public finances throughout the seventeenth, eighteenth and nineteenth centuries. In next sections of this chapter, the data are examined more closely and key political events connected with the public sector audit reforms are identified.

4.3 PUBLIC FINANCE AND POLITICAL STRUGGLE

This section demonstrates the connection between the implementation of public sector audit legislation that strengthened Parliamentary financial control and other political and social constitutional reforms concerned with establishing a more representative and publicly accountable government. The period has been separated into pre- and post-1600 divisions to improve clarity.

4.3.1 Public finance and political struggle: pre-1600

The Imperial British system of managing public finances dates back to the medieval era when most land and all finances were the property of the ruling monarch (James, 2011). In this sense, there was no concept of public finance. All money was literally the royal treasure, stored in the physical treasury and used as the monarch personally desired. The king's noble barons and lords (wealthy land-owners) travelled about as part of the royal court and therefore used sheriffs to perform a type of audit, checking the private accounts of their estates, "on the lord's behalf that his steward had not been negligent or fraudulent" (Matthews, 2006, p. 6). The sheriffs then delivered the accounts to the principal financial officers at the Court of the Exchequer (where the king's finances were managed) for final checking/auditing.

Parliamentary control of the Executive is generally agreed to have originated in the thirteenth-century Magna Carta agreements, which confirmed the constitutional principle that the Crown could not impose taxes without Parliamentary consent. The British Parliament has granted financial support to the Crown on a regular basis since then (Butt, 1969; Spigelman, 2015). In the fourteenth century, Parliament began to insist on revenue being paid directly into the Exchequer, rather than to the royal household, and to demand an examination of the royal accounts (Butt, 1969; Chubb,

1952; Maitland, 1911). In the very early fifteenth century, the House of Commons gained the authority to choose its own auditors and "since 1407, the sole power to initiate Bills involving the grant of public money or the imposition of taxation" (Warner and Marten, 1913, p. 446).

Personal disincentives for dishonest or corrupt behaviour by public sector auditors and collectors of revenue were implemented as far back in time as pre-medieval England and gradually increased in severity. English legislation passed in 1266 (soon after Magna Carta and the implementation of the first Parliament) required all collectors of money to regularly submit their accounts for audit at the Court of Exchequer "and if any make default, their bodies shall remain until they have paid or made agreement" (51 & 52 Hen. III, stat.5, s.9—*Dictum of Kenilworth 1266* (Imp.)). Sheriffs who took any reward to do their office, apart from their salary, were forced to repay double the amount and punished "at the King's pleasure" (3 Edw. I, c.26—*Extortion by Officers of the Crown 1275* (Imp.)). By the early fifteenth century, "accountants" found guilty of concealing money collected on behalf of the Crown were liable to repay treble the amount, "and their bodies to prison, till they have made fine and ransom" (6 Hen. IV, c.3—*First fruits, petitions to the King for lands, sheriffs, escheators, etc 1404* (Imp.)).

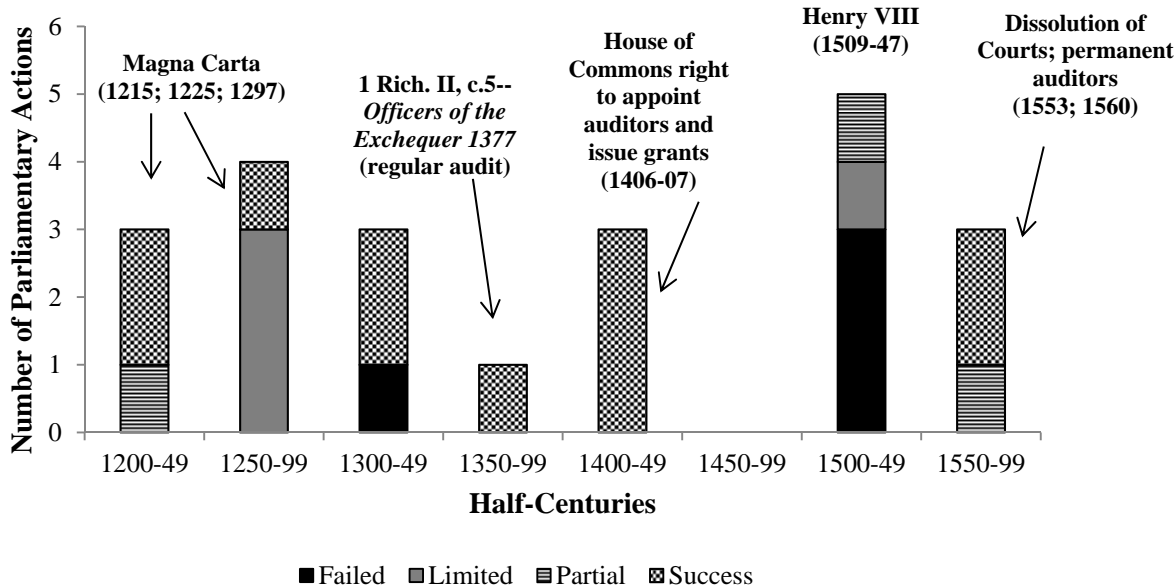
In the sixteenth century, Henry VIII (1509-1547) implemented a number of actions affecting public sector audit. These included establishing his own financial courts, separate from the Exchequer, to manage his additional income from the appropriation of lands and revenues after disbanding the Roman Catholic monasteries in Britain (Thomas, 1848). The effect was to diminish Parliamentary control over finances:

There is no doubt that the parliaments of...Henry VIII's reign, were extremely submissive, practically Henry could get them to do what he wanted....In the years between 1522-8 he extracted heavy loans by a regular process not far removed from compulsion; in 1529 parliament wiped out all the debts; he had recourse to the same expedient in 1542, and the parliament of 1543 whitewashed him once more. (Maitland, 1911, p. 251)

However, the political turmoil over the inheritance of the British crown after Henry VIII's death provided opportunities for Parliament to regain some financial control. His financial courts were annexed to the Exchequer by 1 Mary Sess. 2, c.10—*Dissolution of Certain Courts Act 1553* (Imp.) and, in 1560, within two years of Elizabeth I's accession, permanent auditors of the imprest were appointed and accounts regularly declared before the Treasury (Thomas, 1848; Treasury, 1869).

Figure 4.2 (below) plots the number of Parliamentary actions affecting public sector audit between 1200 and 1599, adding in the key political activities discussed briefly above. As noted earlier (and shown in more detail in Appendix 3), in this 400-year period there were 14 initiatives identified as successful or partially successful in increasing Parliamentary power over the Executive via control of public money. Eight actions were identified which were unsuccessful or which limited Parliamentary control of finances. Piecing together the legislative activity with the political actions demonstrates a clear connection of public sector audit with constitutional proceedings.

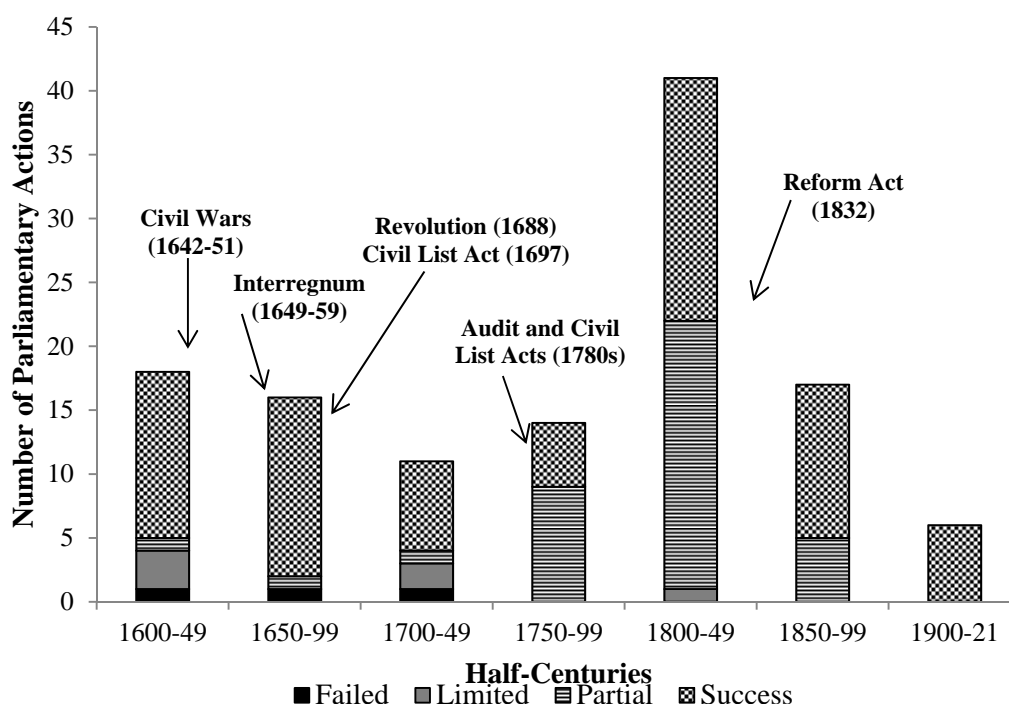
Figure 4.2: Number of Parliamentary actions affecting public sector audit, Britain, 1200–1600, by half-centuries.



4.3.2 Public finance and political struggle: post-1600

Maitland (1911, p. 251) noted that it was in the late 1600s that the British Parliament began again "to act as an independent check upon the king, to assert a will of its own". Many of the public finance management processes taken for granted in modern democratic governance—such as regular Parliamentary appropriation, annual estimates and voting for supply—are a direct outcome of Parliamentary power struggles against the Crown during the British Civil Wars (1642-1646, 1648 and again in 1650-1651). This turbulent period in British history resulted in the passage of several important pieces of legislation strengthening Parliamentary control of revenue collection and account keeping. By the beginning of the nineteenth century, successful mechanisms for achieving Parliamentary control over Executive expenditure had largely been implemented. Examples include appointing commissioners to examine the public accounts; providing specific procedures and responsibilities for officers receiving public money; establishing an annual civil list; stipulating in the annual appropriation acts that the money could only be used for the purposes specified; and creating one consolidated fund and requiring the Treasury to provide annual accounts to Parliament (Chester, 1981; Chubb, 1952; Maitland, 1911). Figure 4.3 (below) highlights the connections between reforms to the Imperial public sector audit system and the Parliamentary efforts to increase control of public money and power, for the period 1600-1921.

Figure 4.3: Number of Parliamentary actions affecting public sector audit, Britain, 1600–1923, by half-centuries.



The Civil Wars in Britain during the seventeenth century arose from increasing pressures between the House of Commons and the Crown (James I, 1603-1625, and then his son, Charles I, 1625-1649), over the King's power to raise revenue by the imposition of taxes (Maitland, 1911). In 1629, Charles I's fourth Parliament refused to vote supply and was dismissed. For the next 11 years Charles I ruled without a Parliament, raising funds through other means such as forced loans. Eventually, in 1640, the need for funding forced Charles I to recall Parliament. The Parliament quickly strengthened its power by passing legislation in 1641 to ensure it must be called at least every three years, could not be dissolved without its own consent and must approve the officers appointed to raise military troops (Warner and Marten, 1913). These actions have been identified as "the abolition of the arbitrary power of the Crown" (Warner and Marten, 1913, p. 368).

Nevertheless, the conflict between the powers of the Crown and the authority of Parliament continued to increase and in August 1642 the first Civil War commenced. During this and the subsequent Civil Wars, the Parliament strengthened its financial control by passing various ordinances such as appointing a committee to collect all

public revenue (in 1643), another committee to account for all revenue (in 1644), a Comptroller of the Excise to keep accounts according to Parliamentary instructions (in 1645), and several other ordinances throughout 1647 and 1648 to administer and audit military salaries and other accounts (see Appendix 3). The conflict ended in early 1649 with the execution of Charles I, the immediate passage of legislation preventing the accession of his son (30 January 1649), and the abolition of the office of King (13 February 1649). Britain operated as a republic for the next 11 years (the Interregnum) and political governance was concerned with redefining and implementing a workable constitution. It was also a period with "many experiments in parliamentary control of finance", most notably an ordinance passed in August 1649 for auditing the Navy and Customs' accounts (Chubb, 1952, p. 16).

The monarchy was restored in 1660 but was now funded only via the approval of Parliament, which granted the Crown a revenue for life, payable from revenue received from customs and excise (Warner and Marten, 1913). The House of Commons first asserted its claim that its finance bills could not be amended by the House of Lords in 1661—a constitutional precedent still operational today (Maitland, 1911; Parliament of Australia, 2014). The administrative control of financial matters, however, began to pass to the Treasury from the Exchequer, which were formally separated. The effect on the Exchequer was to restrict its role from "a central position in the state" to that of recording and auditing the receipt and issuing of public money, thereby ensuring its "uselessness...as an impartial check on public spending" (Chubb, 1952, pp. 12-13).

It merely controlled issue and even this task was performed inefficiently. It was the home of many valuable sinecure offices and its chief officer, the Auditor of Receipt, might be and often was a political leader. (Chubb, 1952, pp. 12-13)

Only a few years later, the Parliament passed 19 & 20 Charles II, c.1—*Accounts of Public Moneys Act 1667* (Imp.), described as "a great advance" for Parliament, because "it secured that additional grants of money to the Crown should be appropriated for particular objects, and that a Parliamentary audit should be made to ensure that the money was so expended" (Warner and Marten, 1913, p. 411). In short, it enshrined in legislation the principle of appropriation, combined with audit

(Medley, 1902). Yet the reign of James II (1658-1688) tested this principle almost to breaking point. The King's attempts to raise an army without the approval of Parliament "exposed the constitutional inadequacy of parliamentary appropriation in the absence of the means to verify actual expenditures" (Funnell, 2007, p. 27).

It is generally now accepted that the subsequent 1688 Revolution was both an institutional and "a fiscal revolution" (North and Weingast, 1989, p. 815), and that it "marked the beginning" of the current management system of public finances (Chubb, 1952, p. 8). Accounting (and audit) became integral to constitutional liberty (Funnell, 2007). The 1688 Bill of Rights guaranteed Parliament's powers in respect to the Crown, initiating an era of Parliamentary supremacy and establishing Britain as a constitutional monarchy (Maer and Gay, 2009). Parliament re-established its sole authority to instigate new taxes and restricted the Crown's independent revenue sources (North and Weingast, 1989, p. 816). Further legislation⁸ "contained the most minute and severe restrictions with respect to the application of the supplies granted by Parliament" (UK, HC, March 11, 1862, vol. 165. cc. 1319). The complete transfer of financial administration to Parliamentary control occurred with the passage of 2 Will. and Mary, Sess. 2, c.11—*Public Accounts Act 1690* (Imp.), giving Parliament the right to both veto and audit government expenditure (North and Weingast, 1989, p. 816).

Throughout the ensuing decade, further legislation was enacted to strengthen the process of appropriation by detailing specific procedures to be undertaken by Exchequer staff, including the Auditor of the Receipt, to ensure compliance, and formalising the principle that public money was no longer the King's personal treasure chest to be used at whim (8 & 9 Will. III, c.28—*Receipt of Exchequer Act 1696* (Imp.); 9 Will. III, c.23—*Civil List Act 1697* (Imp.)) (Chester, 1981). The Crown could now only receive public finance on an annual basis, as granted by Parliament and managed by the Executive (via Treasury) (Maitland, 1911). By the middle of the eighteenth century, the annual appropriation acts generally stated that the grants were not to be applied to any use or purpose other than those specified by Parliament (Chester, 1981). This principle became so well established that, as early

⁸ 2 Will. and Mary, c.1—*The Crown and Parliament Recognition Act 1689* (Imp.).

as 1734, a suggestion made in Parliament for granting a vote for unspecified purposes was met with a formal protest referred to more than 130 years later as having established precedent: "Appropriating Clauses were introduced to prevent the secret ill use of public money; and every tendency of breaking through them is a just foundation for Parliamentary jealousy and inquiry" (UK, HC, March 11, 1862, vol. 165. cc. 1317).

In 1760, on the accession of George III (1760-1820), Parliament achieved full control over the Crown's finances when "the Crown surrendered the management of all the royal domains in return for a Civil List of a fixed amount. It [the Crown] thus ceased to take any personal interest in, and therefore to exercise any control over, the Treasury" (Medley, 1902, p. 545). However, that same lack of interest from the Crown in the operations of the Treasury was perhaps one of the reasons why George III regularly overspent his approved civil list grants and then applied to Parliament for additional funding (Chubb, 1952). Parliament was then forced to consider the Crown's expenditure and approve the requests for more money. It increasingly began to realise its inability to determine if appropriation grants had been spent appropriately. The existing accounting procedures and audit arrangements were not effective, partly because they struggled to cope with increasing national expenditure on war and partly because it was not considered proper for Parliament to require any accounts from the Crown of the royal expenditure (Chester, 1981; Chubb, 1952).

An attempt was made in 1780 to improve the existing public sector audit arrangements by enabling regular audit with 20 Geo. III, c.54—*Audit of Public Accounts Act 1780* (Imp.), but the commission it enabled was not reappointed after 1787 (Chubb, 1952; Normanton, 1966). More successful in strengthening Parliamentary control of the Crown's expenditure was 22 Geo. III, c.82—*Civil List and Secret Service Money Act 1782* (Imp.) (*Burke's Civil Establishment Act*). *Burke's Act* curbed a great deal of civil list expenditure by abolishing over 100 sinecure placements and various outdated offices in the royal household and in the Exchequer (to be enacted upon the death of the incumbents) (Chester, 1981; Funnell, 2008; Treasury, 1869). The preamble to this legislation included that one of its purposes was "for better Security of the Liberty and Independence of Parliament"—a reference

to the "constitutional imperative" for "a strong, independent and vigilant parliament" with financial control (Funnell, 2007, pp. 275-276).

Parliament further strengthened its control of the machinery of financial administration by implementing specific reforms to public sector audit: the passage, in 1785, of two *Audit of Public Accounts Acts* (Imp.) (25 Geo. III, c.52; c.68). These *Audit Acts* abolished the Auditors of the Imprest and replaced them with a board of five Commissioners for Auditing the Public Accounts. The board members were appointed by the Crown under the authority of Parliament and held office during good behaviour. However, they were not independent of the Executive and there were no provisions for them to report to Parliament or for giving effect to their recommendations (Chubb, 1952; Normanton, 1966). Despite the Audit Board's limited independence, it did initiate one significant action that assisted Parliament's ability to gain accurate and timely information on public accounts. This was the recommendation in the Board's 13th Report, in 1785, to consolidate all public accounts into "the Formation of one Fund, into which shall flow every Stream of the Public Revenue, and from whence shall issue the Supply for every Public Service" (Commissioners for Auditing the Public Accounts, 1785, p. 673). Implemented in 1787 by 27 Geo. III, c.13—*Customs and Excise Act 1787* (Imp.), this innovative concept created one single consolidated revenue fund. Parliament now had the means to provide for long-term regular (or even permanent) expenditure (Chester, 1981). In 1802 this legislation was strengthened by 42 Geo. III, c.70—*Public Accounts Act 1802* (Imp.), which required the Treasury to annually table accounts of the British public finances in Parliament. Annual finance accounts were accordingly published in 1802 and, for the first time, an accurate view of the national income and expenditure could be obtained (Treasury, 1869). These new annual accounts also included the new heading of Miscellaneous Civil Services, for public works and buildings, civil service salaries, judicial costs, colonial services and education, science and art (Gretton, 1913). The cost of providing government services could now be determined annually through the process of appropriations. Previously, "either the enlargement of the sum or its diminution would be a serious matter, because such a change would not affect a single year, but would have to be as permanent as the original vote" (Gretton, 1913, p. 105).

By the early nineteenth century, then, Parliament was finally able to ascertain a reasonably accurate view of the public accounts—a crucial asset to maintaining control of public finances. Nonetheless, knowing what money had been allocated to public services (including colonies) in the annual appropriations provided only one part of Parliament's control of the public purse. Parliament also need to identify how that money had actually been spent—quite another part of financial control and one usually obtained via the auditing of accounts. It is true that Parliament had first gained "the never-before-held right to audit how the government had expended its funds" two centuries earlier, after the 1688 Revolution (North and Weingast, 1989, p. 816). However, as checking processes these early audit and accounting instruments were "gravely deficient" (Chubb, 1952, p. 15). In fact, "until well into the nineteenth century the House of Commons had no certain way of knowing whether the money voted for specified uses or purposes had been spent accordingly" (Chester, 1981, p. 209).

As Parliamentary awareness of this gap in its public finance management control grew, various committees on finance and public expenditure were appointed between 1797 and 1819 and issued literally dozens of reports recommending specific improvements for increasing efficiency and economy (Chester, 1981) (see Appendix 3). It is true that the Imperial Parliament at this point was driven by an ideological desire for economic frugality. There was a "parsimonious attitude to the administrative activities of government that was to reign in Britain throughout the following [nineteenth] century. Economy rather than efficiency was the commodity that the state would ever be prepared to purchase" (Gladden, 1972, p. 268). However, the House of Commons sought to achieve control of government expenditure by identifying and preventing financial mismanagement and corruption—not by improving the existing system via effective conformance with appropriation grants.

At no period in the annals of the history of this Country has Parliament in its legislative capacity, and as Guardians of the Public Purse, more imperiously been called upon to institute every practicable check against the mismanagement and misapplication of the Public Money, than at this time. (Committee on the Public Expenditure &c. of the United Kingdom, 1810, p. 37)

Although the cumulative result was considerable reform in public finance management, including government auditing processes and in accounting procedures in general, these reforms did not effect any real change in the subordinate status of the Audit Office to Treasury until after 1850 (Chester, 1981; Chubb, 1952; Edwards, 2011; Funnell, 2004, 2008; Gladden, 1972; Keir, 1966; Young, 1961). For example, the enactment in 1806 of 46 Geo. III, c.141—*Audit of Public Accounts Act 1806* (Imp.) was intended to provide "for the more speedy and regular examination and audit of the public accounts of this kingdom" by separating the offices of the Comptroller of Army Accounts and of the Auditor of Public Accounts (Jacob and Tomlins, 1809). However, an examination of its impact by a Parliamentary Committee in 1810 reported that it had not increased the powers or discretion of the auditors, who were still subject to Treasury control (Committee on the Public Expenditure &c. of the United Kingdom, 1810). The Committee strongly recommended the Imperial auditors be given increased discretion in their work, despite their historical record of inefficiency, and that the annual report of the public accounts (including colonial accounts) provided by them to the Treasury should also be laid before the House of Commons. These recommendations, however, were not followed up by the Parliament. In fact, legislation passed in 1813 to hasten the audit of military expenditure in Spain and Portugal (53 Geo. III, c.150—*Audit of Accounts etc. Act 1813* (Imp.)) also empowered the Treasury "to make new arrangements for the conduct and distribution of the business of the Audit Office" (Select Committee on Finance, 1819, p. 122).

Public sector audit in Britain continued to be understood as merely a part of Treasury's overall financial administrative system until a "growing dissatisfaction with the role and working of the Exchequer" finally lead to a shift of focus to "the role of the auditor in securing proper conformance with the Appropriation Acts" (Chester, 1981, p. 211). The necessity of independent audit was noted in 1831 when a Commissioner of Public Accounts, appointed (by Treasury) to inquire on public money, recommended that

the functions of the Exchequer of Receipt should be placed in the hands of a new Officer—a Comptroller-General of the Exchequer...[and] that a committee independent of the Crown should be chosen annually by the House of Commons to examine and report

on the general statement of accounts submitted by a Comptroller-General before the Annual Budget was voted. (Chester, 1981, p. 212)

Parliament resolved the difference between controlling the issue of finance and auditing the expenditure by implementing legislation in 1832 for the first formal system of appropriation audit (Chester, 1981; Chubb, 1952).⁹ Applicable to the Naval accounts only, this legislation "required the Commissioners for Audit to examine the accounts and vouchers for naval expenditure side by side with the votes and the estimates" and to certify the accuracy of an annual account to Parliament (Chester, 1981, p. 213). The auditors were required to confirm if payments had been properly authorised, that they had been spent in accordance with appropriation grants, and the total had not been exceeded (National Archives, n.d.).

It is notable that at the same time this shift to independent public sector audit was occurring, important extensions to the British franchise were also taking place. The passage of 2 & 3 Will. IV, c.45—*Representation of the People Act 1832* (Imp.) (*Reform Act 1832*) increased the number of seats in the House of Commons and enabled about one out of every five adult males to vote in Parliamentary elections, with the result that, for virtually the first time, members of Parliament were chosen by the general public instead of via patronage and royal influence (Johnston, 2013). Butt (1969) described this legislation as the point at which the Crown lost its influence over membership in House of Commons. The ensuing proliferation of legislative reforms in the way public finance was managed throughout this period may have been successful simply because the electoral and franchise reforms established a powerful Lower House, which could finally add the power to check expenditure along with its long held control over financial issue. Earlier efforts of Parliament had literally led to revolution and civil war. Obtaining and enforcing the power of the purse could now be achieved peaceably, via legislative mechanisms—and it was.

The next three decades saw rapid transformation in Parliamentary control of finances. In 1834, by 4 & 5 Will IV, c.15—*Office of Receipt of Exchequer Act 1834*

⁹ 2 & 3 Will. IV, c.40—*Admiralty Act 1832* (Imp.)

(Imp.), the Exchequer's main function became that of ensuring "that all issues from the Bank to public officers were legal and it was to do this on behalf, not of the government, but of Parliament" (Chubb, 1952, p. 13). The system of appropriation audit implemented for Naval accounts in 1832 was extended in 1846 to the War Office, Commissariat and Ordnance departments, and the process of virement (transferring funds from one budget item to another) was severely restricted. All government departments were required to provide separate estimates of expenditure and revenue by the mid-1850s. The 1857 Select Committee on Public Moneys criticised the Exchequer control system established in 1834 and recommended extending appropriation audits to all revenue accounts and to civil services, and for the Audit Board to report directly to Parliament. In April 1862, a Standing Public Accounts Committee was established. Within a few years, the chair of the Audit Board was appointed as Comptroller-General of the Exchequer and in 1866 the role of Comptroller and Auditor General was created, significantly independent of Executive government and responsible to Parliament (by the *Exchequer and Audit Departments Act 1866*) (Funnell, 1994a).

4.4 THE AUSTRALIAN EXPERIENCE

The British colonies in Australia experienced a similar focus throughout the nineteenth century on Parliamentary control of Executive expenditure and, also like Britain, implemented legislation on public sector audit. As the first British colony in Australia commenced only in 1788 there is, of course, little to compare prior to the nineteenth century. Table 4.1 (below) shows a total of 18 acts affecting public sector audit in Australia in this period. Almost all of these (16) were passed in just six colonies in less than 50 years (between 1852 and 1899), creating an impressive average of almost three pieces of audit legislation every single year.

Table 4.1: Key audit legislation, Australia, 18th and 19th centuries.

Century	Applicable Audit Acts in Australia (<i>in five colonies</i>)
18 th (1)	<ul style="list-style-type: none"> • 25 Geo. III, c.52 and c.68 (<i>Audit of Public Accounts Act 1785</i> (Imp.). A copy of this legislation was given to Arthur Phillip, first Governor of NSW, in 1787 (shortly before the embarkation of the first fleet) (Longhurst, 1995).
19 th (17)	<ul style="list-style-type: none"> • 1 & 2 Geo. IV, c.121—<i>Commissariat Accounts Act 1821</i> (Imp.). Jurisdiction of Colonial Audit Office extended to NSW. • <i>Revenue Audit Act 1852</i> (NSW) • <i>Audit Act 1857</i> (Vic.) • <i>The Audit Act 1858</i> (Tas.) • <i>Audit Act 1859</i> (Vic.) • <i>Audit Act 1861</i> (Qld.) • <i>Audit of Public Accounts Act 1862</i> (SA) • <i>Audit Act 1870</i> (NSW) • <i>Audit Act 1874</i> (Qld.) • <i>Audit Act 1881</i> (WA) • <i>Audit Act 1882</i> (SA) • <i>Audit Act 1888</i> (Tas.) • <i>Audit Act 1890</i> (Vic.) • <i>Audit Act 1891</i> (WA) • <i>The Audit Act Amendment Act 1894</i> (Tas.) • <i>Audit Act Amendment Act 1895</i> (SA) • <i>The Audit Act Amendment Act 1899</i> (Tas.)

Table 4.2 shows, albeit very simplistically, how each of the six separate British colonies in Australia introduced audit legislation at around the same period that they extended the franchise and established responsible government. The complex political movements behind these dates tell a story of colonists who wanted control of their Parliaments and a voice in how the government collected and used their colony's resources. The various audit acts did not always include full recognition of Auditor General independence, but the public and political debates around their passage (and around other failed legislations not shown here) indicate that the concept of an independent check on public finances was a growing desire in each colony and was closely entwined with political and Parliamentary power.

Table 4.2: Key constitutional, audit and franchise legislation, Australia, 18th and 19th centuries.

Colony (date established)	Responsible Govt.	Audit Act	Franchise
NSW (1788)	1855	1852	1850: Men; minimum land-holdings 1858: Adult men; secret ballot
Tas (1825)	1855	1858 1888	1850: Men; minimum land-holdings 1856: Secret ballot 1896: Adult men
WA (1829)	1890	1881 1891	1877: Secret ballot 1893: Adult men
SA (1836)	1856	1882	1850: Men; minimum land-holdings 1856: Adult men; secret ballot
Vic (1851)	1855	1857 1859 1890	1850: Men; minimum land-holdings 1856: Secret ballot 1857: Adult men
Qld. (1859)	1859	1861 1874	1859: Secret ballot 1872: Adult men

For example, Table 4.2 reveals that in the 1850s, New South Wales gained public sector audit legislation, responsible government and the extension of voting rights from wealthy male landowners to all white men aged 21 years or older.

The events in Western Australia are particularly revealing and are examined in detail in subsequent chapters. This British colony was provided with a legal mechanism for obtaining representative government in 1850, under 13 & 14 Vic., c.59—*An Act for the better Government of Her Majesty's Australian Colonies 1850* (Imp.) (also known as the *Australian Colonies Government Act* or the *Australian Constitutions Act No. 2*), but the provisions of this legislation were not implemented until 1870 (mainly because of the late introduction of convictism to the colony) (de Garis, 1981a, 1981b). However, it quickly became evident to the colonists that representative government did not provide any real control over Executive expenditure and the Imperial government was not willing to support a move to a fully elected responsible government despite the desire for such by the majority of colonists (Battye, 1924). The next two decades (1870-1890) were an almost continuous political struggle for the legislature to implement some control on the Executive. The Legislative Council fought for the appointment of an independent Auditor General (in lieu of obtaining responsible government) but although they were successful in gaining an Audit Act (46 Vic., No. 1—*Audit Act 1881* (WA)) it

did not include the desired provisions of Auditor General independence and was understood by most as a political win for Executive government. Responsible government was finally granted in 1890. It was immediately followed by much stronger audit legislation that did include Auditor General independence (54 Vic., No. 12—*The Audit Act 1891* (WA)), and in 1893 by the extension of voting rights to all adult white men (57 Vic., no. 15—*The Electoral Act 1893* (WA)).

4.5 CHAPTER SUMMARY

This chapter has provided an overview of the history of public sector audit administration in Britain and Australia, demonstrating a strong connection with Parliamentary and constitutional history. Analysing the history of Auditor General independence requires this interdisciplinary crossover because it increases understanding of the Auditor General's constitutional role in today's democratic governance. Parliamentary support of the independent Auditor General is weakened without such an understanding of these historical origins.

The next chapter considers the administrative processes by which Imperial Britain managed finances in its global Empire of colonies (especially those in Australia). The Imperial Parliamentary understanding of the usefulness of appropriation audit as a check on Executive expenditure, coupled with the political desire for economic frugality and corresponding focus on government wastefulness, inevitably also resulted in increasing attention to how the annual appropriation grants to colonies were actually being expended.

CHAPTER 5

COLONIAL EMPIRE (1800–1849)

5.1 INTRODUCTION

This chapter examines how Imperial Britain managed public finances in its many colonies during the first half of the nineteenth century. The broader public sector audit reforms that occurred in eighteenth and nineteenth century Britain were examined in the previous chapter. A brief review of British administration (including financial management) of the first four years in the eastern Australian colonies can be found in Scorgie and Reiss (1997), and for the period 1818 to 1831 in Eddy (1969).

Throughout the first half of the nineteenth century, the supervision of its many and varied colonies was a highly complex task for the British Imperial government. Section 5.2 provides an overview of the size and economic impact of managing the Empire, providing contextual information for understanding the necessity of strictly controlled and regulated management of colonial finances in a political context of frugality.

It is necessary to review the financial management system in its entirety as the notion of audit is only a part of the greater effort and is informed by the context of the broader financial management arrangements. Section 5.3 examines the actual administrative mechanisms implemented in efforts to achieve control of colonial finances, highlighting the difficulties caused by communication issues and the complex and shifting responsibilities between the Imperial Parliament, Colonial Office, Treasury and Audit office. The various measures implemented throughout this period to strengthen Parliament's administrative control over colonial finances (legislation, Parliamentary Committees and official instructions to colonial governors) are summarised, and the mechanisms for ensuring the integrity of non-independent public sector audit (rules, personal reputation and security bonds) are examined.

Section 5.4 provides some concluding remarks addressing the key themes and findings of this chapter.

5.2 THE ADMINISTRATIVE IMPACT OF EMPIRE

Britain's ideology of empire-building, with government policies of territorial expansion via military conquest and settlement and economic exploitation (trade), continued even after the loss of its 13 American colonies in the late eighteenth century (Keir, 1966).¹⁰ Throughout the nineteenth century Britain received goods and produce from its many colonies around the world (including slaves, until that trade was abolished throughout the British Empire in 1807¹¹), used its colonies to provide ready markets for its own manufactured goods and produce (and as places to send prisoners and emigrants¹²) and, importantly, received revenue (particularly from the sale of "Crown" land to settlers) (Medley, 1902). A more detailed analysis of British colonial policy between 1776 and the 1860s, especially in regard to the several economic and ideological arguments around issues of trade, emigration, labour and political economy, can be found in Winch (1965); see also (amongst others) Egerton (1913) and Gladden (1972).

The British government managed and controlled this Empire by imposing its own legislative rule on colonies, authorising the size and structure of (and senior appointments to) local government, providing crucial financial support in the form of Parliamentary appropriation grants for the maintenance of local administrations (an annual civil list of salary payments, plus resources in kind such as uniforms and office equipment), providing the entire funding and resourcing of local military establishments, giving final authorisation to local legislative measures and supervising the emigration of settlers and transportation of convicted criminals (Beaglehole, 1941; Boot, 1998; Eddy, 1969; Egerton, 1913; Todd, 1880; Williams, 1943; Young, 1961).

¹⁰ See Appendix 4 for a comprehensive list of Britain's colonies in 1837.

¹¹ However, the practice of slavery persisted in the British colonies until final abolition in 1848 (British Library, n.d.).

¹² Emigration was a major consideration for the British Empire. Considerable attention was paid to philosophers such as Malthus, who contended the only way to avoid an impending disaster caused by overpopulation at Home was to export excess population to the colonies—an especially prescient idea between 1845 and 1852 in the context of the Irish potato famine (Eddy, 1969; Tombs, 2014).

Managing the enormous administrative impact of the colonies was, not surprisingly, a recurring matter of debate in the British Parliament throughout the first half of the nineteenth century. In 1845, Parliamentary debate called for the creation of a specific Select Committee on Colonial Accounts, arguing that the size and complexity of colonial financial arrangements necessitated the implementation of accurate accounting mechanisms. For example:

To the United Kingdom, these Colonies sent for the value of £10,500,000, while to these we export to the value of £17,000,000, of which nearly one-half consists of British produce and manufactures. This trade employs 3,000 ships, comprising 900,000 tons. No one, therefore, could contend for a moment that the subject-matter was one of a trifling character, or that the accounts which represent the revenues and expenditure of so vast and so varied an interest should be kept in any but a satisfactory state. (UK, HC, April 1, 1845, vol. 78. cc. 1322)

At this time there were more than 40 colonies "dependent upon this great Empire", with a combined resident population of over five million (UK, HC, April 1, 1845, vol. 78. cc. 1322). All aspects of the management of these colonies was overseen by the Imperial government, including the interwoven interests of all colonies and Britain in defence, trade and broader economic and social considerations—and all in the context of the cost to the Imperial Treasury (James, 1997).

The majority of British expenditure on its colonies was provided via the annual Parliamentary appropriation grant of salaries for those on the local colonial civil lists. In the ongoing political demands for economy, expenditure on the internal bureaucracies, salaries and pensions of far-away colonies was an obvious area to target for savings (Young, 1961). By the mid-1840s, the House of Commons could complain without dispute that the "Colonies ought to be no expense to the mother country; whereas we were paying large sums for Australia and other of our possessions" (UK, HC, April 1, 1845, vol. 78. cc. 1330). Throughout the nineteenth century, and as its understanding of the need for improved public finance management increased, the British Parliament implemented a range of legislation, regulations, instructions and rules in order to strengthen its colonial oversight and to minimise its spending on what was a rapidly proliferating administrative business of government (Chester, 1981).

5.3 THE BRITISH COLONIAL OFFICE: ADMINISTRATION

Constantly driven by the desire for government efficiency and economy, the Imperial processes for controlling and auditing colonial finances between 1800 and 1849 were complex and cumbersome.

Supervising colonial administration in Britain after 1801 was the ultimate responsibility of the Secretary of State for War and the Colonies, a newly-created Cabinet position (Young, 1961).¹³ Support was increased in 1806 with the appointment of two Under-Secretaries: one to oversee Colonies and another for War duties (Mitchell, 2014). It is, however, difficult to pinpoint the exact point of creation of a supporting administrative government office focussed on colonial management, although references to a specific "Colonial Office" (or Department) appear from 1812 (Beaglehole, 1941; Chester, 1981). Certainly a greater focus on colonial affairs began to be apparent following the end of the Napoleonic wars in 1815, but the one Secretary remained responsible for the two functions (War and Colonies) until the roles were split in 1854 (Chester, 1981).¹⁴

The Secretary of State for the Colonies was responsible for establishing British oversight in colonies by appointing an official representative of the Crown, usually a governor, at the head of local government. All other strategic local government positions were also paid for, instructed and appointed or authorised by the Secretary of State.¹⁵ From the mid-1820s, a small Executive council to assist the governor in decision-making was customarily created from key officers of the civil and military establishments, although ultimate local authority and responsibility was strictly retained by the governor (Todd, 1880).

Imperial colonial policy from the mid-1830s accepted that, as the population of colonies increased, they would become self-sustainable and would seek to become self-governed entities with some form of elected legislative Parliament modelled on

¹³ Hereafter referred to as the Secretary of State for the Colonies, or as the Secretary of State.

¹⁴ For a more detailed study of the British Colonial Office in the early 1800s, see Young (1961); also Beaglehole (1941); Eddy (1969) and Williams (1943).

¹⁵ For example, the governor was supported by a small staff of administrative officers forming the civil establishment—in today's Australian term, the public service—and frequently a military establishment which commonly also functioned initially as a de-facto police force.

the Westminster system and a consequent withdrawal of Imperial supervision and financial support (Gladden, 1972; Todd, 1880; Winch, 1965). The "transition from the paternal government of the colonial office in London to the establishment of self-government" was described as being effected by

the wise adaptation of British constitutional principles to colonial polity; and by the gradual introduction into each dependency, according to its political condition and circumstances, of the principle of self-government in all matters of local concern, coupled with the unreserved application, in regard to the same, of the constitutional maxim of ministerial responsibility to the colonial assembly. (Todd, 1880, p. 25)

Those colonies without a representative or a fully responsible legislative government were known as "Crown colonies". These were more dependent on British support (in the case of immature settler colonies) for their survival or were exploitative colonies (such as India) (James, 1997). Consequently, such Crown colonies were far more closely administered by Britain. In colonies that had been permitted to adopt responsible government, the governor remained (as previously) responsible to the Crown—a constitutional arrangement that persists in Australia today—but the Executive council took responsibility for framing local government policies and embodying these in legislative bills, making official appointments, "and of superintending and controlling all public affairs through the appropriate departments of state in the colony" (Todd, 1880, p. 39). By late 1845 there were 42 British colonies, 19 of which were Crown colonies without representative assemblies (Select Committee on Colonial Accounts, 1845).¹⁶

Chester (1981, p. 239) described the administrative operations of the Colonial Office as presenting "problems both to the political and the permanent elements....[T]he nature of the business, dealings with numerous Colonies and overseas possessions, could be troublesome". The following sub-sections examine the specific administrative mechanisms used to control financial management processes in the British colonies. The information provides important contextual background for understanding the realities of nineteenth-century colonial audit systems.

¹⁶ These 19 Crown colonies in 1845 included the four in Australia: New South Wales; Van Diemen's Land; Western Australia; South Australia (Select Committee on Colonial Accounts, 1845).

5.3.1 Communication processes

Communication between the colonies and Britain throughout the eighteenth and nineteenth centuries was almost always by hand-written correspondence transported in despatches on the next available sailing ship. The transportation of mail by sailing ships meant that both colonies and the British government were forced to cope with long delays before receiving administrative authorisations and clarifications of official business (Young, 1961). In 1845, the Imperial Audit Office expected to wait for up to three months before receiving an answer to any query they might send to a colony about a particular account (Select Committee on Colonial Accounts, 1845). Colonial administrators could wait even longer for replies to their requests for advice, as there was no guarantee their correspondence, or even the operations of their colony in general, would be considered a priority and processed quickly even once their mail had arrived in London (Young, 1961).¹⁷

Direct official government communication was only permitted between the colonial governor and the Secretary of State for the Colonies. Detailed instructions were issued as early as 1818 to colonial governors, specifying the appropriate subject headings to be used, the size of the paper and margins, and a requirement for strict confidentiality (Glenelg, 1837; Young, 1961).¹⁸ Additionally, colonial governors were "strictly enjoined to send home, punctually" copies of local newspapers and of proceedings in the local Legislative Council and Assembly (Glenelg, 1837, p. 9). This requirement may have been "particularly galling" to governors as it provided settlers with a direct communication channel to the British press and was often used to "cheekily" address "grievances and criticism directly to the incumbent Secretary of State" (Macphail, 2008, p. 51).

¹⁷ The Colonial Office handled more than 12,000 letters in 1824, with a staff of 17 officers (Macphail, 2008, p. 30; Young, 1961). This was an increase in volume from 1816 of over 60% (corresponding with the earlier mentioned premise that the end of the Napoleonic wars in 1815 enabled the Imperial government to focus more attention on its colonies) (Young, 1961). From Australia alone (New South Wales and Van Diemen's Land), the Colonial Office in 1824 received almost 1,000 letters (totalling almost 2,300 pages) and despatched just over 1,100 letters (totalling about 730 pages) (Young, 1961). Such a rate of increase continued: the Colonial Office librarian asserted in 1839 that "the business of the office had increased a hundredfold since 1824" (Williams, 1943, p. 142).

¹⁸ Interestingly, in April 1822, the Secretary of State was forced to issue a circular despatch to every colonial governor instructing that they must hand over all public despatches and documents to their successor: the confidentiality clause was being interpreted too strictly and incoming governors were complaining that their efficient administration was impeded by their predecessor withholding information (Watson (1917). Note 74. HRA Series 1, Vol. XI, p. 921).

Colonists could directly communicate with the Secretary of State via a process implemented in the interests of "justice and fairness to all parties concerned" and to regulate "the free resort of all His Majesty's subjects to the highest authority in the State for the redress of any grievances" (Glenelg, 1837, p. 91). Colonists with matters of concern had to first address these to their local governor. "Should the Governor's decision not prove satisfactory", the colonist could inform the governor of their dissatisfaction and request them to transmit their respectful "remonstrances" to the Secretary of State (which transmission was required to be accompanied, of course, by the governor's own opinion and report on the matter) (Glenelg, 1837, p. 92). Clearly some colonists had attempted to circumvent the process, for the instructions also clearly stipulated:

6. The practice which has in some instances been adopted of addressing memorials direct to this office, and only sending copies of them to the Governor, on the eve of the departure of the vessel which is to convey them, will not be recognised as a proper course of communication, and must therefore not be repeated. (Glenelg, 1837, p. 92)

Upon receipt at the Colonial Office, colonial correspondence and reports were usually forwarded to other relevant departments for advice and/or actioning. In this respect, "the Colonial Office was merely a post office between the governments of the colonies and those offices of government in Westminster whose authority extended to the colonies" (Young, 1961, p. 170).¹⁹ Williams (1943, p. 151) claimed "the Colonial Office was politically unimportant and the secretary of state sat in the cabinet only because the portfolio was combined from 1801 to 1854 with that of the minister of war" (see also Winch (1965)). Colonial Office staff could find their liaison with other departments to be a frustrating exercise. Williams (1943, p. 150) described the actions of many government departments in their dealings with the Colonial Office as "obstructive and pigeonholing"; he was particularly critical of the Board of Trade ("dilatory and greedy for authority"), the Customs and Post Offices

¹⁹ Those other "offices of government" could be numerous. For example, in the 1820s the oversight of political control in New South Wales was held by the Colonial Office, convict matters by the Home Office, transports by the Admiralty, finances by Treasury, auditing expenditure of Parliamentary grants by the Audit Office and of internal accounts by the Colonial Audit Office, military troops and pensioners by the Commissariat, military buildings by the Ordnance Office, mail by the Post Office, currency by the Mint, religious matters by the Ecclesiastical Commissioners and customs revenue by the Board of Customs (Young, 1961).

("caused endless irritation") and the legal system ("colonial acts wandered off for long sojourns with the privy council").

However, by far the majority of Colonial Office interaction was with the Treasury—and certainly on financial issues (Young, 1961). Yet Williams (1943, p. 150) considered the Treasury "most difficult of all...the attitude of its officials was frequently arrogant and sometimes shortsighted". Young (1961, p. 182) claimed "Treasury delay was notorious" (as did Eddy, 1969), and quoted James Stephen²⁰ as complaining to a colleague in 1840 that "it took not less than two months on an average to obtain an answer from the Treasury, and that in several cases there had been a delay of a year or more".

Two examples of the tortuous routes that could be undertaken by a single piece of correspondence will suffice to illustrate how complicated, frustrating and slow the communications system could be. A request from Governor Darling in New South Wales, in the early 1820s, for iron bedsteads to be provided from England for his troops "went to the Commander-in-Chief, the Colonial Office, the Treasury, the Commissariat, the Ordnance, and finally back to the Treasury and Colonial Office again" (Eddy, 1969, p. 192). Similarly, in the Swan River colony, in August 1832, Lieutenant Governor Stirling issued a requisition including 150 pairs of shoes for soldiers (Broun to Lewis, 8 August 1832, CSO, SROWA, Cons 49 V3-5, No. 3241). The shoes were duly supplied by the Ordnance Department at the Cape of Good Hope, which then submitted an application for reimbursement (about £35) to Britain in February 1833. However, in Western Australia, the receipt of all the goods was recorded as being "for the use of the Settlement", not noting the shoes were for the military (Comptroller's Office to Treasury, 20 January 1835, T1/3426 (AJCP reel 1086)). As Imperial expenditure on the colonies separated military funding from civil expenses, the Imperial Treasury was not prepared to decide from what funds the expense should be reimbursed without official confirmation as to what branch of the service the shoes were actually provided. Correspondence discussing the matter between the Treasury, Comptroller's Office, Board of Ordnance and Commissioners of Audit meant the matter was not concluded until July 1835, almost three years after

²⁰ James Stephen, Permanent Under-Secretary of State for the Colonies 1836-1848 (Williams, 1943).

the initial requisition, when Treasury finally accepted the shoes probably had been issued for military service and instructed that reimbursement could be made—with the proviso that the Commissariat in Western Australia still be required to report on the purpose for which the shoes had been supplied and to refund the relevant value from the colonial fund to the military chest if any had been provided to settlers (Treasury Minute, 6 July 1835, T1/3426 (AJCP reel 1086)).

5.3.2 Financial administration

The example above also provides evidence of how the decision making in colonial financial matters was the responsibility of the Treasury, and not the Colonial Office. The Imperial Treasury had held responsibility for British revenue collection and disbursement since the late 1700s, and throughout the 1800s the House of Commons began increasingly to also expect the Treasury to have similar sole authority over expenditure (Chester, 1981). Funds could not be issued without the consent of Treasury. The effect was that the Treasury centralised its supervisory control over all other government offices with an interest in colonial finances—including the Customs and Excise Boards, Board of Ordnance, Commissariat Department and, of course, the Commissioners of Audit (Chester, 1981; Eddy, 1969). By the mid-1820s, "the Treasury had begun to assume a very active role in the determination of colonial financial policy" (Young, 1961, p. 170). In 1855, Sir Charles Trevelyan claimed that the Treasury was "the chief office of the Government....Two-thirds of the Civil Establishment are directly subordinate to it, and the expenditure of the remaining third is under its superintendence" (Chester, 1981, p. 208).²¹

Treasury control of colonial finances was maintained administratively by using intricate and strict systems of checking, double-checking, and issuing of instructions. Further control over information may have been the rationale for the Treasury's general reluctance to simplify processes and to modernise its management of public finances, although such a reluctance to freely share information is not likely to have been officially admitted. For example, the Imperial Exchequer actively strategised to retain medieval methods for recording information (such as wooden tally sticks with

²¹ Broader discussion on the growth of Treasury control and power in Britain during the nineteenth century can be found in several sources (including Chester, 1981; Chubb, 1952; Clark, 1960; Eddy, 1969; Macpherson, 2013; Normanton, 1966; Young, 1961).

carved notches, Latin and its own version of Roman numerals) until as late as 1834, more than a century after the rest of the British government had transitioned to the use of paper, English and Arabic numbering.²² Even serious criticism of the Treasury's ongoing usage of these "antiquated", "barbarous" and "incomprehensible" methods by a Select Committee on Finance was not sufficient to prompt change (Select Committee on Finance, 1819, p. 122).

A further example, directly relevant to colonial accounting, is the fact that each British colony used local currencies for transactions, at varying rates of exchange established by the Imperial Treasury. The corresponding difficulties of auditing such a variety of accounts must be clear, yet the obvious simplification of "introducing a fixed and uniform medium of [ex]change for all transactions connected with the public service" was not even identified as a possible solution until the mid-1820s (Butlin, 1953, p. 161). The requirement to keep all public accounts in "sterling" currency finally came into effect in New South Wales on 1 January 1826 (Butlin, 1953).

The Colonial Office and the Treasury were, of course, the major advisors to the Imperial government and Parliament in their ongoing efforts to control colonial finances, particularly in regards to managing the annual appropriation grants to colonies. The role of audit became increasingly important to Parliament throughout the nineteenth century, both locally within the colonies and in the final authorising audit in Britain, as a means of obtaining accurate information on colonial expenditure and there were several Parliamentary Committees specifically targeting this issue. Legislation was passed and official instructions issued to colonial governors in ongoing attempts to improve the management and audit of colonial finances and to ensure the personal integrity of financial officers. These methods are briefly examined in the next sub-sections of this chapter.

²² The use of English and Arabic numerals was mandated for all judicial proceedings by 4 Geo. II, c.26—*Proceedings in Courts of Justice Act 1730* (Imp.), but almost immediately the Exchequer decided "that this change was not desirable" and ensured new legislation was passed within two years (6 Geo. II, c.6—*Receipt of the Exchequer Act 1732* (Imp.)) that exempted it from compliance and "specially enacted that its officers should ... follow the ancient practice" (Treasury, 1869, p. 342). The 1732 legislation was not abolished until 1834 (by *Receipt of Exchequer Act 1834* (Imp.)), finally enabling the use of the English language and common numerals. Legislative permission to record receipts on paper had been enacted in 1783, but the use of wooden tally sticks continued until late 1826 (Heath, 1927).

5.3.3 Imperial control over colonial audit: official instructions; legislation; parliamentary commissions and select committees

From the late 1700s to the mid-1800s, the Imperial Parliament and the Colonial Office struggled to find ways to adequately control financial management systems in the colonies. Colonial governors received no standardised instructions, reporting requirements or legislative procedures for their guidance until well into the nineteenth century. Two very early and general instructions to colonial governors did not include any explicit requirement for audit: the first, a Treasury Minute of 1764, strictly forbade colonial governors from incurring "any Expense for which Money has not already been granted by Parliament, or which has not been previously approved", except in cases of real emergency (House of Commons, 1803, p. 183). A similar Treasury regulation in 1791 confirmed this principle and extended the requirements: colonial governors would be required to personally repay the cost of any non-Treasury approved projects they might initiate and, within three months after the end of each year, they were to provide Britain with both estimates of how they expected to spend the Imperial Parliamentary grant and accounts of actual expenditure, using the same heads of service for each and explaining any variance (House of Commons, 1803).

The first official reference to Imperial auditing of colonial accounts appears to have been issued a few years later, in 1798, when the newly appointed Commissary of New South Wales was instructed to transmit annual estimates of required stores and specie and, "from time to time", to submit his accounts "duly Attested on Oath, to the Commissioners for Auditing the Public Accounts" (Treasury Instructions to Commissary Palmer, 1 November 1798. HRA Series I, Vol. IV, pp. 18-22). Despite a conviction in Britain that local colonial auditors could not provide reliable assurance on the colonial accounts, due to their lack of independence from the governor (as noted below), the Commissary was nevertheless expected to have the governor check and approve the accounts prior to their transmission to Britain. The process did thus provide for a rudimentary local audit that could be understood as providing a "real check, in most cases the only check, on local expenditure" (Young, 1961, p. 185).

Upon receiving the colonial accounts, the Imperial auditors were not required, or even able, to check conformance with the various colonial appropriation acts. The need to do so was simply not understood to be part of financial control and the physical processes made it almost impossible for Imperial auditors to provide a timely check. Crown colony estimates were passed locally in the form of annual appropriation acts, published in local newspapers. These were sent to the Colonial Office for legislative approval only and were not then passed on to the Audit Office (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837). Imperial Auditors could only verify if public money had been spent according to the wishes of the Imperial Parliament by referring to general accounting reports and the vouchers accompanying each item of expenditure (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837). In any case, colonies did not vote their appropriation sums in detail, only for general services (although under specific heads) (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837). Given also the significant time lags between colonies passing their estimates and the Imperial Audit Office checks, there was "nothing to prevent the Governor from drawing warrants on the Treasury for monies not included in the estimates" for, by the time the warrants were checked by the Audit Office, "the money...has been previously paid away" (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837, p. 112).

In 1800, one of the first pieces of Imperial legislation focussing specifically on colonial accounts was passed (41 Geo. III, c.22—*Expenditure in the West Indies Act 1800* (Imp.)). It appointed five "Commissioners for the more effectual Examination of Accounts of Public Expenditure for His Majesty's Forces in the West Indies during the Present War" (Jacob and Tomlins, 1809). These new Commissioners were subordinate to the existing Commissioners for Auditing the Public Accounts but the Imperial Parliament's colonial focus at this time was obviously on the military expenses associated with the Napoleonic wars (and, by inference, not on the daily administrative processes in the Australian penal colonies of New South Wales and Van Diemen's Land).

An auditing requirement imposed in 1806 (by *Audit of Public Accounts Act 1806* (Imp.)) required all persons accountable for public money (not just those in the

colonies) to submit annual accounts to the Auditors of Public Accounts within three months of the year end (Select Committee on Colonial Accounts, 1845). This legislation also included a specific reference to the management of colonial finances by formalising that any officer who improperly authorised colonial expenditure would be held personally responsible for repayment.

Perhaps in recognition of the growing workload and complexity of managing the colonial Empire, a new, separate Colonial Audit Office focussed on auditing the colonial expenditure of Parliamentary grants was created in 1814 by 54 Geo. III, c.184—*Accounts of Colonial Revenues Act 1814* (Imp.). Its jurisdiction was only for five colonies (Ceylon, Mauritius, Malta, Trinidad and the Cape of Good Hope), which were now required to submit regular accounts to Britain (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837). Soon after its creation, the Colonial Audit Office prepared account-keeping instructions issued to colonial governors in 1815 by the Imperial Treasury but "the directions as to the revenue, were very general, and to the effect that the receipts were to be examined by the local authorities" (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837, p. 49). Colonial governors must have appreciated them even so, as there was certainly a need for clear and current guidance: the financial management instructions (Treasury minutes) initially provided to the Governor of New South Wales in 1816 (Governor Macquarie) were those from 1764 and 1791 and were thus at least 25 years out of date (Eddy, 1969).

The Colonial Audit Office's jurisdiction was extended in 1821 to other colonies (including New South Wales) by 1 & 2 Geo. IV, c.121—*Commissariat Accounts Act 1821* (Imp.) (Di Francesco, 1999; Longhurst, 1995; Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837). This 1821 legislation gave more substance to the requirement holding both colonial treasurers and governors personally responsible for any improperly authorised or directed expenditure.²³ Further, it broadened the audit investigative powers by providing three Commissioners in the Imperial office to specifically examine both colonial receipts

²³ The "accountant" appointed in Crown colonies as responsible for submitting accounts to Britain for audit was usually the treasurer, but in the Canadian provinces was the receiver-general, and in others the governor (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837, p. 47).

(from colonial revenues) and expenditure (Parliamentary grants). Nevertheless, the real control of colonial finances was still firmly held by the Treasury—evidenced by the contemporary description of this legislation as superseding "the ancient and inconvenient system of keeping the public accounts" by ensuring the "whole of the arrangements in the Audit Office are now subjected to the control of the lords of the treasury" (Knight, 1835, p. 81).

Several independent commissions of enquiry were appointed by the Imperial Parliament in the early nineteenth century to obtain first-hand information on colonial activities and expenditure. Such commissions were sent in 1802 to Trinidad, West Africa (1811), the customs service in the American colonies (1812) and to Malta (1812) (Young, 1961). The House of Commons also called regularly for Parliamentary returns (requests for specific information) on the size and various expenses of colonies, to be supplied directly by the relevant government department (usually the Colonial Office or Treasury). For example, in 1817 the Parliament requested the Colonial Office to provide an account of all civil and military colonial offices, including names, salaries, and dates of appointments (Colonial Office, 1817).

The Imperial Parliament could also investigate areas of concern via the appointment of Select Committees. These operated independently of the Executive government in a similar manner to modern Parliamentary select committees or even Royal Commissions. Committee members were appointed by Parliament and given extensive powers to call for witnesses and papers. Their recommendations were contained in substantial reports with literally hundreds, sometimes thousands, of pages of evidence. At least three such high-level committees were appointed to inquire into colonial accounts, in 1819, 1837 and in 1845: their findings are discussed below.

The first of these Select Committees, in 1819, examined the operations of the Colonial Audit Office established under the *Accounts of Colonial Revenues Act 1814*. The Chair of the Commissioners for Auditing the Colonial Accounts was asked if it would improve on-site financial management if the colonies employed professional auditors (that is, people with some training or experience in auditing or accounting). The Chair advised that there were auditors in Ceylon and Mauritius,

"acting under very strict regulations", but extending the requirement was unnecessary because colonial accounts subjected to a local audit also needed examination in Britain, both to pick up local errors and because colonial auditors were not independent of the governor:

An auditor in the colonies must be subject to the governor, and bound to admit any expenditure which the governor may authorize; and therefore that a mere local audit would not operate as an effectual check upon any expenditure by the governor, even if it should be contrary to the directions of His Majesty's government. (Select Committee on Finance, 1819, p. 142)

This is authoritative evidence that colonial auditors in the early nineteenth century operated as part of Executive government, and no recommendation was made for placing auditors in the colonies.

Imperial oversight of colonial finances was not helped by the refusal of the Secretary of State for the Colonies 1812-1827, Lord Bathurst, to permit Imperial auditors to communicate directly with colonial governors or to access general colonial correspondence (Young, 1961). Bathurst's own innovation for strengthened Colonial Office administrative oversight was implementing a requirement for governors to provide annual statistical reports using standardised headings. Beginning in 1822, these "Blue Books" provided readily available information on each colony's revenue, expenditure, taxes, fees, civil establishment, population and other details according to standardised templates (Young, 1961). No new audit requirements were included with the financial reporting templates but it was believed that the consistent formatting would aid the Imperial Parliament in accurately forecasting its own expenditure on the colonies (Horton to Brisbane, 13 March 1824. HRA Series I, Vol. XI). Unfortunately, however, the amount of information provided was overwhelming. For example, in 1838 the House of Commons called at least twice for information on colonies that had already been published in the Blue Books, indicating the difficulty of finding specific information (Colonial Office, 1838a, 1838b). A Parliamentary Select Committee in 1837 considered the possibility of collating the Blue Book information into a more manageable publication but resolved

the process would be too expensive (Martin, 1843; Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837).²⁴

An Imperial Parliamentary Commission of Inquiry was appointed in 1830 to examine the revenue and expenditure of colonies in Malta, Gibraltar, New South Wales and Mauritius, and "to suggest to the Commissioners of our Treasury such regulations and arrangements...for the better collection...of the revenue, or for the reduction of expenditure therein" (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837, p. 3). This Commission's report endorsed strict Treasury control "over every branch & every article of Colonial Expenditure" (Young, 1961, p. 194). It recommended adopting a more uniform system for stating the accounts and implied that while the Colonial Audit Office (created in 1814) had made some useful suggestions (including the separation of the military from civil expenditure), these efforts were "very imperfectly carried out;...have nothing of a complete or comprehensive character, and have proved wholly inadequate to remove the mass of irregularity and abuse" (UK, HC, April 1, 1845, vol. 78. cc. 1327). The criticism of the Colonial Audit Office resulted in its abolition in 1832, by legislation that specifically referred to there being "several Accounts...which have not been examined".²⁵ The responsibility for auditing all unexamined and future colonial accounts was transferred back to the Commissioners for Auditing the Public Accounts, which continued to operate as a sub-department of Treasury (Knight, 1835; Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837; Tomlins and Granger, 1835).

Dozens of pages of highly specific financial management instructions were provided by the Imperial Treasury in 1826 to the newly incoming Governor of New South Wales (Darling) (see Chapter 6 and Appendix 6), but this advice was not standardised nor widely distributed to other colonial governors. The first set of standard operating instructions to colonial governors appears to have been implemented in March 1837, when the then-Secretary of State for the Colonies

²⁴ The task was instead taken up by Robert Montgomery Martin, a civil servant and writer, who used the Blue Books to produce two dense statistical publications (Martin, 1839, 1843). Martin stated in the later publication that it contained "about three million figures" (p. v): such an intense level of detail might explain why his efforts do not appear to have been repeated in subsequent years.

²⁵ 2 & 3 Will. IV, c.26—*Colonial Audit Revenues Act 1832* (Imp.).

compiled and published in one document all of the various standing regulations for colonial governors and senior officers that had been dispersed over the years via correspondence (Glenelg, 1837).²⁶ These innovative "Rules and Regulations for Her Majesty's Colonial Service" included financial instructions increasing the accountability for expenditure of public money and the provision of financial returns, and clarifying provisions of the *Commissariat Accounts Act 1821* (Imp.). Highly successful, the publication was revised many times throughout the nineteenth century. A later edition provided financial management instructions considerably expanded from the original 1837 publication (Select Committee on Colonial Accounts, 1845). For example, one new inclusion concerned correspondence between the Commissioners of Audit in Britain and "the Officer of Account in the Colonies", and other new sections gave detailed instructions for the secure custody of public money (Select Committee on Colonial Accounts, 1845, pp. 724-725).

In late April 1837, the House of Commons appointed a second Select Committee to examine colonial accounts and find a way "to introduce uniformity, regularity, correctness, and completeness" (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837, p. ii). This Committee interviewed 16 officers with wide-ranging experience in colonial accounting, from a variety of departments including the Treasury, Colonial Office, Paymaster General's department and the Commissioners for Auditing the Public Accounts. Its report was tabled in Parliament on 13 July 1837 and included over 200 pages of detailed evidence but no recommendations for reform.²⁷ The Committee was able to confirm Parliament's suspicion that it was not receiving adequate information on colonial finances, noting the financial information contained in colonial reports generally remained at the Colonial Office and the Treasury and was not usually submitted to Parliament except as abstracts of the annual estimates. Even these were not printed nor provided to Parliament in any detail (Gretton, 1913).

It was not until April 1845 that a third Parliamentary Select Committee was formed to investigate colonial accounts. The formal motion calling for its appointment

²⁶ Lord Glenelg, Secretary of State for the Colonies 1835-1839.

²⁷ The report was almost certainly finished hurriedly as the date of tabling was just over three weeks after Victoria ascended the British throne following the death of William IV; just four days after this tabling the Parliamentary session was prorogued and all Select Committees automatically ceased.

deliberately used exactly the same words as for the 1837 Select Committee. Once again the Imperial Parliament wanted to examine colonial accounts "in order to introduce uniformity, regularity, correctness, and completeness" (Select Committee on Colonial Accounts, 1845, p. ii). That Parliament was still required to prepare its annual appropriation grants to Crown colonies without accurate information on the actual (or even estimated) receipt and expenditure is apparent from the motion calling for this Committee:

We voted £9,812 [to the Falkland Islands] in the year 1844; many votes had preceded this, to an amount not probably less than £20,000 more. Of its application we know nothing—of the revenue of the Island we know nothing.

Of the accounts presented nothing could be more irregular or less uniform than their character....In a word, there is no unity of plan or purpose—no general model—no system pervading the whole—no two [colonies], indeed, adopting the same plan.

Equally irregular are the records of Colonial outlay....The details of the expenditure of New South Wales, for example, being above £800,000 occupy nine folio pages—that of Canada, which is £476,000, is despatched in less than a page and a half—or in less space than is occupied to account for the £20,000 which is disposed of in Prince Edward's Island, or the £13,500 spent in Honduras. (UK, HC, April 1, 1845, vol. 78. cc. 1322-25)

The 1845 Select Committee found the lack of a standardised reporting format and the inconsistency in colonial account reporting to be of real concern (Select Committee on Colonial Accounts, 1845). Its report included over 800 pages of evidence and 19 recommendations for improvement that were eventually adapted by the Treasury and Audit Office into standardised accounting instructions and forms. As a direct result, all Crown colonies were expected to have implemented this new and comprehensive system for managing and reporting their accounts by 1848—and certainly by 1850 (Treasury, 1847).²⁸ Finally, an effective system was in place and by 1849 "the votes for Civil Establishments at home and abroad" could be arranged under the head of Civil Estimates and presented separately to Parliament—that is, colonial appropriations could be separated from those for Great Britain (Chubb, 1952, p. 12).

²⁸ A summary of these requirements is provided in Appendix 5.

5.3.4 Imperial control over colonial audit: ensuring audit integrity

The concept of auditor independence was not, as it is today, viewed as a necessary pre-requisite for audit integrity partly at least because the cultural context of personal reputation operated at a more fundamental level to maintain effective control. The failure of a nineteenth-century auditor in either the private or public sector to report any discovered problems was considered a breach of their professional reputation that served "as a bond for the auditor's independence" (Watts and Zimmerman, 1983, p. 630).

The requirement for colonial administrators (including auditors) to adhere to official Imperial instructions cannot be separated, in the context of the era, from the individual need to sustain and enhance personal reputation, honour and integrity. Individual personal reputation was a central aspect regulating nineteenth-century social and business life to a degree that can be difficult to understand today, affecting even the most casual daily relationships. For example, as late as July 1892, an English-born clergyman wrote in the Church of England Diocese of Perth's *Quarterly Magazine* to advise potential emigrants that "Government officials, professional men, the descendants of the first colonists, and others form a quasi aristocracy, and any attempt on the part of a new comer to treat all the colonists on the same level proves itself a mistake" (as cited by Bunn, 1994, p. 30).

The considerably smaller populations in colonial Australia meant everyone was known to everyone else and personal reputation could be even more important than in Britain (Bunn and Gilchrist, 2013). One's personal reputation was also essential for employment, as appointments and promotions were almost always via accepted systems of nepotism and patronage. Appointments for government positions, including colonial auditors, were made by the Crown (generally the Secretary of State for the Colonies, who either personally nominated the appointee or officially confirmed the local governor's nomination) (Select Committee on Colonial Accounts, 1845). For more information on the actual operation of patronage in the colonial New South Wales civil service, see McMartin (1959, 1983, 1987). Appointing people to public service positions on the basis of merit was not to occur in Britain until 1870, after a series of reforms beginning with the now well-known

Northcote-Trevelyan Report (tabled in the Imperial Parliament February 1854) and the subsequent establishment of the Civil Service Commission in 1855. These reforms and their effects on public sector administration, including public accounting, have been well-documented elsewhere (see, for example, Edwards, 2011; Gladden, 1956; Macphail, 2008; Williams, 1943).

On a more overt level, and as noted earlier, audit integrity was also motivated by the Imperial legislation requiring those who sanctioned any expenditure of public funds in the colonies without proper authority to be held personally responsible for repaying the sums (*Audit of Public Accounts Act 1806* and *Commissariat Accounts Act 1821* (s.20)). In 1825, those responsible for colonial government finances also became required to provide a financial security bond (James Stephen, Jr. to Horton, 27 March 1825. HRA Series IV, Legal Papers, Section A, Vol. I, p. 592). The amount of the security bond required from colonial treasurers was determined on a case by case basis, "proportioned to the amount [of cash] that he must necessarily have in his hands for current purposes" and could be substantial (Select Committee on Colonial Accounts, 1845, p. 90). For example, in 1832, the newly appointed Collector of Revenue in Western Australia was advised that "for the just Performance of the several Duties specified you will be required at your earliest Convenience to enter into Bond for the Sum of One Thousand Pounds with one Surety"—a sum five times more than the £200 annual salary (Colonial Secretary to Collector of Revenue, 27 June 1832, CSO, SROWA, Cons 49, v.3-5, no. 3089).

That it might prove difficult to actually find and appoint people financially capable of providing such a security was acknowledged by the Colonial Office ((1835, August 8). Stanley to Stirling, 8 March 1833. *The Perth Gazette and Western Australian Journal*, p. 543). Yet even this ratio seems slight when compared to the personal bond of £30,000 (50,000 Spanish dollars) required seven years earlier from the newly appointed Treasurer of New South Wales (William Balcombe), whose authorised salary was £1,000 per annum (Bathurst to Brisbane, 6 February 1825. HRA Series I, Vol. XI, p. 494; Brisbane to Bathurst, 8 February 1825. HRA Series I, Vol. XI, p. 514). Instructions from Britain on the size of the security bonds to be provided "by officers entrusted with public money in Western Australia" were still

being received as late as 1862 (Secretary of State for the Colonies, 26 February 1862 (Despatch No. 10). WA, LC, May 23, 1862, p. 1006).

As a method of providing security, however, personal bonds were not necessarily guaranteed. The liability of Balcombe for the public money in New South Wales was acknowledged by Governor Darling but he also pointed out to the Colonial Office that Balcombe possessed no property and, in the event of loss, "the recovery of the money would, I have no doubt, been found totally impracticable" (Darling to Bathurst, 22 May 1826. HRA Series I, Vol. XII, p. 323).

5.4 CHAPTER SUMMARY

This chapter examined how Imperial Britain gradually improved its ability to administratively manage the public finances in its many colonies during the first half of the nineteenth century. The power to administer the financial systems in the colonies was a struggle between the Colonial Office and the Imperial Treasury, complicated by communication problems, but the Imperial Parliament, driven by a political need to reduce expenditure, was able to introduce methods for standardising both instructions to colonial governors and reporting from the colonies.

There is ample evidence that those responsible in the colonies for the management of government finances were subject in this same period to increasing sanctions for any misuse of their authority in addition to strong social expectations of compliance. These assisted in providing local control over colonial finances despite audit functions being contained within the Executive.

The following chapter provides a case study of how Imperial oversight of financial management was applied in New South Wales. In particular, the problems that arose from initial deficiencies in official instructions are shown, and the resultant implementation of a new system of audit in the 1820s. This study is important as these experiences in New South Wales informed the financial management system established in the 1830s in Western Australia.

CHAPTER 6

COLONIAL AUDIT IN NEW SOUTH WALES (1788-1839)

6.1 INTRODUCTION

This chapter examines how early nineteenth-century Imperial government oversight of financial management was applied in the British colony of New South Wales, on the east coast of Australia, during the first five decades of settlement. A particular focus is given on the early problems in financial management arising from deficiencies in instructions concerning audit processes and in the personal integrity of key personnel, and the subsequent preparation and implementation of a new system of audit in the 1820s. This study of this administrative system is valuable as it was the precursor—and contrast—to the public sector audit administration processes in the later Swan River colony established on the west coast of Australia in 1829 (discussed in subsequent chapters). New South Wales, Swan River and South Australia (established in 1834) were the only British colonies in Australia instituted with their own administration from the beginning of settlement. Further, neither Swan River nor South Australia were established as penal colonies.

6.2 EARLY FINANCIAL ADMINISTRATION (1788-1820)

The penal colony of New South Wales, founded in 1788, originally encompassed virtually all of the Australian continent's eastern two-thirds. For almost the next four decades, the various governors of New South Wales held administrative responsibility for all of the British settlements within that geographic area as well as for New Zealand, which became a separate Crown colony in 1841.²⁹

The experience of New South Wales in the management of public finances from the late 1700s to the early 1800s was one of administrative inefficiencies. There were serious problems in both the New South Wales and Van Diemen's Land settlements

²⁹ The British settlement begun in 1803 in Van Diemen's Land (Tasmania) was not formally separated from New South Wales and established as a separate colony with its own administration until 1825. Port Phillip was first settled by Britain in 1836 and was administratively separated from New South Wales (as Victoria) in 1851; the Moreton Bay convict settlement began in 1825 but was not separated (Queensland) until 1859. The British colony in South Australia, legislatively established in 1834 and officially proclaimed in late 1836, originally included all of central Australia—what is now the Northern Territory was not transferred from South Australian to Commonwealth control until 1911.

that resulted in, most notably perhaps, the "Rum Rebellion" of 1808 (see, amongst others, Evatt (1939); Butlin (1953)). There was no official, physical government Treasury and, at least to begin with, little actual specie (Butlin, 1953). Until the mid-1820s, government finances in colonial New South Wales were managed locally by the Commissary, the Naval Officer and the Treasurers of the Police and Orphan funds (Watson (1917) "Commentary". HRA Series I, Vol. XI, pp. 913-914). The few private labourers were originally paid locally in bills upon the Imperial Treasury, which were "of little Service to them in this part of the World" (Phillip to Nepean, 17 November 1788. HRA Series I, Vol. I, p. 104). Most of the colony's resources (food, clothing, other stores and specie) were stored in and issued from the Commissary, which effectively also provided the only banking facilities (Beckett, 2012; Butlin, 1953). The workload of Commissary Miller was so great that Governor Phillip³⁰ appointed an assistant within a few weeks of landing in Australia (Phillip to Sydney, 15 May 1788. HRA Series I, Vol. I, p. 35).

Later, as the colony in New South Wales transitioned from a strictly penal settlement to one increasingly attractive to free settlers, the consequent booming free-market capitalist economy overwhelmed the existing financial systems (Butlin, 1953; Di Francesco, 1999; Young, 1961). It is the underlying reasons for the management system failures that are of particular interest here. Chapter 5 discussed the complex and cumbersome processes that existed in Britain in the early nineteenth century for managing colonial finances and a great deal of the financial problems experienced in early New South Wales can be attributed to those deficiencies in instructions and oversight from Imperial Britain. The lack of guidance and effective management meant the system struggled to cope with the rapidly changing local environment, and was not able to prevent mismanagement by some poor choices of individuals in key financial management roles. Both these factors are discussed below.

6.2.1 Deficiencies in instructions and audit control

Searching early official correspondence reveals the various governors of early New South Wales had little assistance from Britain in terms of how they were expected to manage public finances. Instructions were very general and there was certainly no

³⁰ First Governor of New South Wales (7 February 1788 to 10 December 1792).

mention of any form of financial audit until the passage of the *Audit of Public Accounts Act 1806* (Imp.). Within the colonies, "the governors directed the Commissary, dealing with each situation as it arose. There was no full and complete set of rules for procedure" (Butlin, 1953, p. 31).

The over-riding duty for colonial governors was to maintain strict economic frugality. A Treasury Minute of 1764 forbade colonial governors from incurring expenses not included in the Parliamentary appropriations, and a similar Treasury regulation of 1791 confirmed this principle and instructed colonial governors to provide annual accounts of estimates and expenditure (House of Commons, 1803) (as noted in Chapter 5). Governor Phillip's official original instructions in 1787 authorised him to purchase provisions for the colony using bills of exchange and to account for these purchases by ensuring the Commissary transmitted accounts "from time to time" to the Imperial Treasury, but included the warning that "we are desirous to diminish as much as possible the expences [*sic*] which the intended establishment occasions" (Governor Phillip's Instructions, 25 April 1787. HRA Series I, Vol. I, p. 11; 13). It is true Phillip's official Commission provided a general authority over public finance in the new colony, permitting expenditure as directed by the Parliamentary grants for funding the civil establishment in New South Wales (2nd Commission, 2 April 1787. HRA Series I, Vol. I, p. 7). However, as Phillip did not receive a copy of the Parliamentary Estimates for the financial year 1788-1789 until mid-1790 it would have been impossible to ascertain what that annual appropriation grant actually included (Phillip to Nepean, 14 June 1790. HRA Series I, Vol. I, p. 178).

The second Governor of New South Wales, Hunter (September 1795 to September 1800), received similarly brief advice on financial management. Hunter's instructions were that he alone, as Governor, would be solely responsible for drawing bills for public purposes on the Imperial Treasury and he was required to ensure the Commissary transmitted regular accounts to the Treasury (Instructions to Governor Hunter, 1 July 1794. HRA Series I, Vol. II, p. 521). The third Governor, King (September 1800 to August 1806), acknowledged his receipt in 1800 of Treasury instructions provided to the Commissary regarding the process for payment of

purchases (dated 1 November 1798³¹) but noted specifically that he himself had received "no orders on this Head", except for some conversation had with the Secretary of State while in England, plus copies of the 1794 instructions to Governor Hunter and the Treasury minutes of 1764 and 1791 (King to Treasury, 8 November 1800. HRA Series I, Vol. II, p. 693).

It is not clear when (or even if) colonial governors were officially advised of the implications of the *Audit of Public Accounts Act 1806* (Imp.). This legislation applied to all persons accountable for public moneys, including those in colonial settlements, and required accounts to be submitted to the Imperial Auditors of Public Accounts within three months of year end and enforced personal responsibility for unauthorised expenditure.³² These requirements were of little use to the fourth Governor of New South Wales, Bligh, in his attempts to manage the events leading up to what became known as the "Rum Rebellion" in 1808 and the ensuing "scandal" in Britain (Eddy, 1969, p. 155). Governor Bligh was replaced in 1810 by Governor Macquarie.³³

Given that the management of public finances was a core factor in the overthrow of Bligh's administration, it is difficult to understand why Macquarie was not provided with improved (or at least updated) instructions on managing colonial finances. Macquarie's Commission in 1809 contained exactly the same very general authority on managing finances as that provided to Phillip in 1787 (Macquarie, 8 May 1809, HRA Series I, Vol. VII, p. 188). The data revealed in official and private correspondence demonstrate that the Imperial government was apparently content to merely provide Macquarie with an overview of its concerns and then to rely on Macquarie's own administrative skills to provide solutions. For example, Macquarie was instructed to have the Commissary's accounts "properly examined, and that office placed upon a proper footing", but no specific suggestions were provided as to how that task might be effected (Castlereagh to Macquarie, 14 May 1809, HRA Series I, Vol. VII, p. 84). Fortunately, Macquarie's experience seems to have been up to the task, as evidenced by his following letter to the Secretary of State:

³¹ Treasury Instructions to Commissary Palmer, 1 November 1798. HRA Series I, Vol. IV, pp. 18-22.

³² As discussed in Chapter 5, the first legislation focussed specifically on colonial accounts (*Expenditure in the West Indies Act 1800* (Imp.)) did not apply to New South Wales.

³³ Fifth Governor of New South Wales (1 January 1810 to 1 December 1821).

Agreeably to Your Lordship's Instructions I have framed and published such New Regulations as appeared to me adviseable [*sic*] and Necessary for simplifying the Accounts and improving the System of Conducting the Various Duties of the Commissariat Department, and I am happy to say that Office is now placed on a respectable and regular Footing. (Macquarie to Castlereagh, 30 April 1810. HRA Series I, Vol. VII, p. 253)

Macquarie's several strategies for managing colonial finances included implementing a uniform colonial currency and consolidating the separately maintained accounts in the several settlements (for detailed discussion, see Butlin (1953)). It is clear Macquarie considered the amalgamation of accounts would simplify them, thereby achieving "the desireable [*sic*] object of forming a strong check and controul [*sic*] over the Accounts of the Subordinate Settlements...with very considerable advantages to the Public (Macquarie to Liverpool, 9 November 1812. HRA Series I, Vol. VII, p. 533). In May 1812, Macquarie was sent directions "that a Statement of every Branch of Colonial Revenue should be made up and transmitted Home, Annually, with the purposes to which the said Revenue is Applied", which he acknowledged in a letter accompanied with a copy of the most recent quarterly account (Macquarie to Bathurst, 28 June 1813. HRA Series I, Vol. VII, p. 721). However, there is no evidence that Macquarie was made specifically aware of the reporting requirements of the *Audit of Public Accounts Act 1806* (Imp.) prior to August 1814. This was when Deputy Commissary-General Allan (who had arrived in the colony a year earlier, in June 1813) informed Macquarie he had just been instructed to adhere to them, and therefore required Macquarie to witness that the accounts were "attested upon Oath...before the Governor, ...accompanied with the necessary Vouchers in support thereof" (Allan to Macquarie, 7 April 1815. HRA Series I, Vol. VIII, p. 548). Imperial instructions for receipts to be examined in the colonies before transmittal to Britain had been prepared by the Colonial Audit Office in 1815 but, as noted earlier, its jurisdiction was not officially extended to New South Wales until 1821. In 1816, Governor Macquarie was instead sent the "ancient [Treasury] minutes" from 1764 and 1791 on the regulation and reduction of expenditure (Eddy, 1969, p. 155).

The conclusion from this evidence must be that colonial governors in the late eighteenth and early nineteenth centuries were very much expected by Britain to use

their own personal initiative and experience to provide security and accountability for the local management of government money. Without clearly defined systems of checks and procedures, it is not overly surprising that colonial governors failed, at times, to ensure that security.

There was no official colonial treasury and no auditor in New South Wales or Van Diemen's Land until the mid-1820s, some 35 years after the arrival of the first fleet (Bunn and Gilchrist, 2013). A Parliamentary Select Committee on Finance found in 1819 there were only two colonies employing the services of professional auditors (Ceylon and Mauritius). Longhurst (1995, p. 6) attributed the lack of a public sector auditor or even a controller of accounts in New South Wales to the "peculiar nature of the penal settlement" but it seems that this colony, despite its function as a British prison, was not unique and conformed to the standard system of financial administration operating in most other Imperial colonies with all the subsequent difficulties.

6.2.2 Corruption

A second important factor underlying the financial problems experienced in early New South Wales was the appointment to key financial management roles of some individuals with questionable personal ethics and experience. Existing official sanctions against dishonesty were insufficient to prevent its occurrence, being limited to Imperial legislation holding those who authorised any expenditure of public funds without proper authority to be personally responsible for repayment (*Audit of Public Accounts Act 1806; Commissariat Accounts Act 1821* (s.20)). Governor Macquarie implemented his own much stronger precautions in 1813 to ensure the accountability of his sub-ordinate, the newly appointed Lieutenant Governor of Van Diemen's Land, explaining:

For, if I am to be held Accountable by His Majesty's Ministers for the...Expences [*sic*] of those Settlements, it is equally Necessary that Lieutenant Governor Davey should be tied down by Rules, and held Accountable to me for his Conduct and Measures in the immediate Administration of them....I Conceive there cannot be too many Checks imposed on an Officer situated at so great a Distance from Head Quarters, in respect to his public Measures, and

Expenditure of the Public Money. (Macquarie to Bathurst, 28 June 1813. HRA Series I, Vol. VII, p. 709)

Even so, Macquarie was pessimistic about the effectiveness of detecting problems "unless He is a Man of strict honor and sound integrity", although he intended to take immediate measures "the moment I discover that He sanctions any peculation of the Public property, or applies any part thereof, or any Public Money he may be entrusted with, to His own use" (Macquarie to Goulburn, 30 June 1813. HRA Series I, Vol. VII, p. 790).

The reliance on personal integrity and trustworthy morals, combined with a lack of clear administrative instructions and extensive time-lags in communication and checking procedures, resulted in many examples of misconduct in the New South Wales colonial settlements including corruption, embezzlement, fraud, illegal taxation and unauthorised loans of public money to private citizens (see, for instance, Bunn and Gilchrist (2013); Butlin (1953); Evatt (1939); McMartin (1958b, 1983)). Certainly Governor Darling (Governor of New South Wales 1824 to 1831) claimed that government officials "had long been using government funds for their own profit" ("Darling, Sir Ralph (1772-1858).", 1966). Such issues were particularly evident in the operations of the various Commissariat officials who, as noted earlier, carried the bulk of the workload for managing government finances under the ultimate authority of the governor. Eddy (1969, p. 157) described the record of Commissariat officials in the Australian colonies as "black" and Longhurst (1995, p. 6) referred to "a series of corrupt Commissariat officials [that] feathered their own nests".

In particular, the interpretations of official instructions and "various private speculations" by Deputy Commissary-General Allan between 1813 and late 1818 eventually led to his suspension from office by the Imperial Treasury (Butlin, 1953, p. 96). The scale and extent of the dishonesty from Allan's replacement, Drennan (appointed as head of the New South Wales Commissariat in 1818), were arguably even worse. An 1821 committee of inquiry found Drennan had misappropriated over £6000 of government funds—for this fraud and malfeasance Drennan was sent to England by Governor Brisbane in 1822 under military arrest and dishonourably

discharged (Beckett, 2012; Butlin, 1953; Di Francesco, 1999; Eddy, 1969; Parsons, 1967). In Van Diemen's Land, the Colonial Naval Officer/Treasurer, Bromley, was discovered in 1824 to have embezzled an amount equivalent to a quarter of that colony's total annual revenue for that year (Bunn and Gilchrist, 2013; Di Francesco, 1999; Eldershaw, 2011; Scripps, 2006).

The management systems for ensuring personal accountability evidently failed, quite spectacularly at times, to ensure proper accountability of government finances in the early 1800s. These administrative failures were to eventually result in the implementation of an official colonial Treasury and Auditor General in the mid-1820s to provide more effective controls (Bunn and Gilchrist, 2013).

6.3 IMPLEMENTING AUDIT CONTROLS (1819-1829)

The poor state of administrative affairs in New South Wales and Van Diemen's Land led Lord Bathurst (Secretary of State for the Colonies, 1812-1827) to institute a commission of inquiry to investigate complaints, inquire into all the laws and regulations and recommend improvements in the system of government (Bennett, 1966; Young, 1961). Arriving in Sydney in September 1819, Commissioner Bigge was accorded precedence in the colony second only to Governor Macquarie and spent two years investigating and interviewing (Bennett, 1966). His efforts culminated in three comprehensive reports to the House of Commons, respectively printed in June 1822, February 1823 and March 1823 (Bigge, 1823). The principal outcome of these reports was the passage in 1823 of Imperial legislation implementing a Legislative Council in New South Wales, with members appointed by the Secretary of State to act as an advisory body to the governor (*Justice, New South Wales Act 1823* (Imp.)) (Young (1961); Watson (1917) "Introduction". HRA Series I, Vol. XI, p. viii). This step has been identified as the first in the "devolutionary intentions" of Britain in regards to administration of its colonies in Australia (Eddy, 1969, p. 23).

However, it was "the gradual establishment of an honest and effective colonial audit" that was acknowledged as "one of the most notable imperial achievements of the 1820s" (Eddy, 1969, p. 157). Bigge proposed a complete reform in the administrative

machinery of colonial public finances: to replace the existing confused and misused system of revenue collection with both a colonial Treasury and a Commissary of Accounts, accountable to the governor (Bigge, 1823). The Imperial Treasury agreed this system would achieve an effective local check on internal expenditure. By October 1823 it had appointed the first Australian Colonial Treasurer (Balcombe) and in early 1824 a Commissary of (military) Accounts (Lithgow).

However, administrative problems continued as a result of delays in receiving and implementing proper instructions. In 1822 the Colonial Office sent template forms to all its colonies with instructions on implementing a new, more consistent system of account reporting (see Chapter 5), but New South Wales was mistakenly omitted from the list. The forms were not sent to Australia until May 1823, finally being received in October that year (Horton to Brisbane, 19 May 1823. HRA Series I, Vol. XI, p. 83). In early 1824, Governor Brisbane³⁴ acknowledged that the required format was so "altogether new", and "attended with so much labor", that he was unable to provide "this detailed information respecting the financial resources" of the colony, and instead provided a summary of expenses and resources for 1822 "as a temporary Substitute for this Omission" (Brisbane to Horton, 28 January 1824. HRA Series I, Vol. XI, p. 206). Before that letter could have arrived in Britain, the Secretary of State wrote to Brisbane to remind him it was a matter "of extreme importance" for the British government to receive the completed forms "as soon as possible" because they had "pledged to make out the Estimate next year on an entirely new System":

The object of this new formation of the Estimates is to shew [*sic*] on one side the whole expenditure of the Colony, and on the other, the amount, nature, and application of the Colonial Revenue, and the Sum which the Mother Country is obliged to pay to make up the deficiency, and to balance expenditure with Revenue. (Horton to Brisbane, 13 March 1824. HRA Series I, Vol. XI, pp. 243-244)

This is clear evidence that the Imperial Parliament was paying increasing attention to financial management in its colonies; nevertheless, the newly appointed Colonial Treasurer, Balcombe, arrived in April 1824 in New South Wales without

³⁴ Sixth Governor of New South Wales (December 1821 to December 1825).

instructions—a situation described as "typical of the empiricism of the Colonial Office" by Eddy (1969, p. 160). Even directions for a procedure as fundamental as secure storage of specie had not been provided. Balcombe responded in May 1826 to an inquiry from Governor Darling that he had "never received any specific Instructions as to the mode, in which I should keep the Public Money; but as it has been the custom with my predecessor in Office to keep it in the Bank, ...I conceived I was justified in following the example" (Balcombe to Colonial Secretary, 26 May 1826. HRA Series I, Vol. XII, p. 337).

About one week before Governor Brisbane received the reminder letter of 13 March 1824 and another set of the new templates, the *Prince Regent* had left Sydney bearing a request from Brisbane for more administrative assistance in managing colonial finances (http://www.jenwilletts.com/convict_ship_mangles_1824.htm). Specifically, Brisbane wanted to extend Lithgow's responsibility as Commissary of Military Accounts to auditing "the whole Colonial Revenue, in order that He may have the entire financial state of the colony under His eye" (Brisbane to Bathurst, 2 October 1824. HRA Series I, Vol. XI, p. 379). The request was approved, with Secretary of State Bathurst noting "the measure...agrees with one which had been recommended to the Lords Commiss's [sic] of His Majesty's Treasury for adoption previously to my receiving your Dispatch" (Bathurst to Brisbane, 14 June 1825. HRA Series I, Vol. XI, p. 645). In June 1825, Lithgow was thus officially appointed as the first Colonial Auditor in Australia (Di Francesco, 1999).

In October 1825, shortly before his term ended, Governor Brisbane published in the local newspaper regulations he had received from the Imperial Treasury "for the Guidance of Financial Officers of New South Wales and its Dependencies" (Colonial Secretary's Office. (1825, October 3). Government and General Order. *The Sydney Gazette and New South Wales Advertiser*, p. 4).³⁵ There were 31 specific instructions for the Colonial Treasurer, Naval Officer and officers in charge of bonded stores and other various branches of revenue collection—and none for the Colonial Auditor. The method of formatting accounts was detailed and revenue collectors were instructed to regularly pay over sums collected to the Colonial Treasurer. All officers

³⁵ Extensive searching of correspondence in the HRA and other sources has not identified when these instructions were sent from Britain or actually received by Brisbane.

were required to submit regular accounts "to Government, for Examination"; this may have been for the colonial audit. The Treasurer was also to ensure all vouchers supporting the accounts were taken in duplicate so a complete set could be transmitted for examination by the Imperial Auditors.

Later that same year (1825), Britain formally granted independent government to Van Diemen's Land and separated its administration from New South Wales. Its new Lieutenant Governor, Sir Arthur, implemented an administrative establishment on the same model as that in New South Wales with a Treasury, Commissariat and Auditor of Civil Accounts (Di Francesco, 1999).

The British colonies in Australia in 1825 at last possessed a system of public sector audit that could provide some rudimentary (in today's terms) oversight of government finances. Final verification of government financial management in the colonies was maintained by the Imperial government—the Imperial Treasury and/or the Commissioners of Audit—to which all colonial administrations had to report (via the Secretary of State for the Colonies), but "public finance was, in appearance at least, regularized" (Barnard, 1962, p. 373). Although this audit function did not operate independently of the Executive, it did provide "a competent accounting function for the colonial administration" (Di Francesco, 1999, p. 44). A better system of managing finances was still a few years off and is discussed below.

6.3.1 Preparing and implementing a "new system of accounts"

Throughout the early 1820s, the Colonial Office and Imperial Treasury were finalising financial reporting templates, establishing constitutional legislation for New South Wales and Van Diemen's Land, and agreeing to appoint official local Treasuries and audit checks. They were also busy preparing for a new Governor of New South Wales. Sir Darling was appointed in 1824 and arrived in December 1825 to replace Governor Brisbane ("Darling, Sir Ralph (1772-1858).", 1966). Despite the instructions to financial officers Brisbane had published in October 1825 (noted above), both Darling and the Imperial government were well aware that further explanation was needed for effective management of colonial finances. Darling was obviously not impressed by the general administrative system left by Brisbane,

describing a system of "confusion and disorder" and noting that "no Steps had been taken, previous to my arrival, to establish regulations for the Conduct of any of the Departments, either Civil or Military" (Darling to Bathurst, 12 April 1827. HRA Series I, Vol. XIII, p. 249).

On my assuming the Government, every Department appeared to act for itself, without check or control, and indeed without any responsibility. Money was drawn without any specific authority, and issued without any Regulation, or even a Voucher of any validity for its expenditure...I, therefore, judged it necessary immediately to forbid the issue of Money without my special authority. (Darling to Bathurst, 2 February 1826. HRA Series I, Vol. XII, p. 149)

Darling was particularly concerned with the operations of the Naval Officer's Department which was responsible for the majority of revenue collection but, as it consisted only of the Naval Officer and one unpaid clerk, it was "totally unequal to the Duties it has to perform; and there can be no doubt that the losses sustained by Government have in consequence been very considerable" (Darling to Bathurst, 2 February 1826. HRA Series I, Vol. XII, pp. 150-51).

More than the usual attention had been given in the Colonial Office to preparing Darling's official commission and instructions, partly because the standard instructions to colonial governors, "so often transcribed, [were] now no longer applicable 'in any part'" (Eddy, 1969, p. 28). Primarily, however, questions about how financial accountability should be allocated between the governor and the newly appointed Colonial Treasurer needed clarification. Archival correspondence confirms that in March 1825 the Imperial Treasury and Colonial Office sought legal advice on this matter (from Stephen, later to be Under-Secretary of the Colonial Office himself (Chester, 1981)). The legal opinion provided was pragmatic. Colonial Treasurers should hold responsibility for issuing funds in the colonies and for submitting colonial accounts for audit in Britain (albeit in obedience to official warrants issued by the governor) because they were the ones who actually handled the money, they were usually professional accountants and they were required to provide a security bond. In contrast, argued Stephen, colonial governors were specifically restricted from direct receipt of any Crown revenue. Their function was "merely to prescribe to the Treasury, or to the Commissariat, the proper time and manner of issuing the

Funds placed under the control of those Departments" (Stephen to Horton, 27 March 1825. HRA Series IV, Legal Papers, Section A, Vol. I, p. 592). Legally, Stephen argued,

The warrant of the Governor for issuing public money, and the receipt of the person into whose hands the money is accordingly paid, form the proper vouchers of the Treasurer. If those Warrants are issued improperly, I cannot think that the Governor should be held directly responsible to make good the amount from his own pocket. *A Governor authorizing a misapplication of the public money does not become a public Debtor, but a State delinquent; his offence is not within the cognizance of public sector auditors, but of the Secretary of State, or of Parliament.* (Stephen to Horton, 27 March 1825. HRA Series IV, Legal Papers, Section A, Vol. I, p. 592) [emphasis added]

Stephen further recommended that the "Instructions to Colonial Governors" should also be updated and suggested framing them as a set of guiding regulations covering all administrative branches, namely, "Executive Government, Legislative, Revenue, Crown lands, Judicial affairs, Ecclesiastical affairs and Education, Police, Convicts, Native inhabitants, and New Settlements" (Eddy, 1969, p. 29). However, this idea was not implemented until 1837, as noted earlier (Glenelg, 1837).

Darling's powers as Governor of New South Wales were finalised in July 1825 and enclosed in a despatch containing his official Commission, official Instructions and the Royal Warrant for appointing a Legislative Council (Bathurst to Darling, 14-16 July 1825. HRA Series I, Vol. XII, pp. 18-23; 99-126). Bathurst also intended to enclose a copy of Treasury advice (prepared by the Commissioners of Colonial Audit) "by which you will perceive how far it is intended to deviate from the system of accounting hitherto observed by the respective Governor of the Colonies" (Bathurst to Darling, 14 July 1825. CO 202/14 (AJCP reel 217), p. 275).³⁶ It seems, though, that the Treasury was not moving at the same speed. Under-Secretary Hay was forced to apologise to Darling a fortnight later, as the advice had still not been officially issued (Hay to Darling (Private), 28 July 1825. HRA Series I, Vol. XII, p. 44). The instructions were eventually finalised in June 1826, transmitted in August 1826, and finally received by Darling in February 1827—well over a year after his

³⁶ Interestingly, this part of the relevant sentence is not included in the HRA transcript of this letter (Bathurst to Darling, 14 July 1825. HRA Series I, Vol. XII, p. 20).

actual arrival in New South Wales (Bathurst to Darling, 11 August 1826. HRA Series I, Vol. XII, p. 483-93; Darling to Bathurst, 16 February 1827. HRA Series I, Vol. XIII, p. 113).

These "sweeping new instructions" of June 1826 finally provided sufficient detail on how to manage colonial finances for Governor Darling, the Colonial Treasurer and the Colonial Auditor and were implemented in 1827 (Eddy, 1969, p. 164). The 26 detailed instructions for the Auditor of Accounts alone filled 11 pages with hand-writing.³⁷ These were the first official instructions from Britain provided for the Colonial Auditor and evidently remained operational for many years (New South Wales Auditor General's Office, 1963). Also included in the despatch were 24 detailed instructions for the Treasurer (14 hand-written pages) and a further 62 instructions (30 hand-written pages) to Darling, "respecting the Revenue and Expenditure of the Colony, and the mode of accounting for the same", plus various template forms for recording and reporting the finances (Treasury to Darling, 13 June 1826. HRA Series I, Vol. XII, pp. 483-493). Evidently the original template reporting forms of 1822, which Governor Brisbane had found so complex, had not been effective, for the final instruction to the Colonial Auditor chided:

26th. From the very irregular and senseless manner in which many of the Colonial Accounts have been submitted to this Country, We strictly admonish you to pay the greatest attention to these Instructions, and adhere closely thereto. (Treasury to Auditor of Accounts in NSW, 13 June 1826. AO 16/44 (AJCP reel 1541, 1787-1826))

It is self-evident that the final authority for accepting colonial accounts as correct still rested with the Imperial Treasury. Although the instructions were transmitted to Governor Darling via the Secretary of State for the Colonies and included the provision that they were not to supersede or interfere with any previous or subsequent orders issued by the Secretary of State, that provision seems disingenuous given it was included only as the sixtieth of 62 detailed paragraphs. It was the Lords Commissioners of the Imperial Treasury who had prepared and issued

³⁷ Appendix 6 contains a transcription of these instructions to the Colonial Auditor.

these instructions, which repeatedly stated that reports on colonial finance were for the use of the Treasury (even though transmitted to them via the Secretary of State).

One of the new accounting requirements included in these 1826 instructions was the separation of expenditure on the military and convict systems (to be met by Imperial Britain) from that on the colony (to be funded by the local government) (Eddy, 1969; Shaw, 1966). This attempt at reducing Imperial expenditure appears to have been applied to all colonies, as it was noted in House of Commons debate years later as having been one of the few useful suggestions of the Colonial Audit Office (UK, HC, April 1, 1845, vol. 78. cc. 1327). Nevertheless, separating the military and colonial accounts increased the workload of managing finances to such an extent that Governor Darling found it necessary to split the workload by also separating the offices. Having begun to implement the "New System of Accounts" immediately after receipt in February 1827, Darling acknowledged to the Colonial Office that the Colonial Auditor, Lithgow, had been of such great assistance that he had appointed Lithgow to the new position of Auditor of Colonial Accounts and he believed "there is perhaps hardly an Office of more real importance under the Government. At ... Mauritius, the Auditor ranks next to the Colonial Secretary" (Darling to Bathurst, 12 April 1827. HRA Series I, Vol. XIII, p. 50). In Van Diemen's Land, Lieutenant Governor Arthur noted the "great benefit to the Public" that had resulted from Darling's initiative of appointing Lithgow as Auditor of Colonial Accounts and effected a similar system by appointing Boyes in November 1826 as Auditor of Civil Accounts. Arthur also envisioned this appointment would significantly improve financial accountability, as per his explanation in early 1827 to the Colonial Office:

Perceiving the necessity for establishing every possible Check upon the disbursements from the Colonial Revenue, and the consumption of Stores by the various Public departments, Mr Boyes has been directed to examine them, most attentively and minutely, before any Warrant is issued or any Account passed, and I feel a confidence that a very considerable Public Saving may be anticipated. The fraud and robbery in every way is beyond description. (Arthur to Bathurst, 2 January 1827. HRA Series III, Vol. V, p. 472)

6.4 EFFECT OF THE NEW SYSTEM (1830-1839)

A detailed picture of colonial audit processes in the 1830s and earlier is revealed in evidence provided to the 1837 Select Committee on the Accounts of Colonial Receipt and Expenditure, and confirms that audit remained under Treasury authority. The evidence shows that by the mid-1830s all governors of Crown colonies had received strict instructions from the Imperial Treasury as "to the mode of conducting the revenue and expenditure, and accounting for it" and were expected to provide regular detailed reports including a preliminary local examination of accounts (by an auditor in the larger colonies and committees of the Council in smaller ones); quarterly returns to the Secretary of State of colonial chest transactions; annual estimates of receipt and expenditure (included in the Blue Books); and annual locally audited accounts to the Treasury for Imperial audit (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837, para. 31, p. 4). Self-governing colonies with representative assemblies had some independence from Imperial oversight, providing their annual statements of civil revenue and expenditure "merely for information" (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837, para. 30, p. 4), but still had to provide their military accounts to Britain for audit (Select Committee on Colonial Accounts, 1845). The Audit Commissioners also used the information received to produce regular abstracts of colonial expenditure, receipt and revenue for the Treasury and Parliament (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837; Young, 1961).

The instructions to colonial governors "for the better keeping of accounts" may have been prepared in the Audit Office, but they were "submitted by the Audit-office to the Treasury" for approval and issued to colonies under Treasury authority (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837, p. 49). Further, evidence from the Treasury's "Principal Clerk for Colonial Business" confirms that colonial accounts, once received in Britain, may well have been forwarded to the Audit Office for the actual work of audit but final approval (control) was held by the Imperial Treasury:

118. I understand from you that there is a previous audit in the colony; is there any audit at the Treasury, in the progress of the accounts towards the Audit Office here?—None whatever; ...the accounts are stated by the Commissioners of Audit to the Treasury, who either approve or disallow them, as the Treasury Board think fit. (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837, p. 38)

Evidence from Deputy Commissary-General Wemyss³⁸ verified that the same process had been followed in the 1820s by the Commissary of Accounts in New South Wales and added that, in one case, it had taken nine years from the close of the accounts in the colony to the final audit clearance in London (Parsons, 1967; Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837). The reason for such lengthy delays, according to an Inspector in the Audit Office, was because colonial accounts "differ very much from other accounts...charges frequently occur which are excesses of establishment, or charges of a novel or unusual nature, or charges which exceed in amount the sum which the governor is empowered to authorize" (Select Committee on the Accounts of Colonial Receipt and Expenditure, 1837, p. 48). Subsequent chapters demonstrate that all of these complicating factors were evident in the Swan River colony and were viewed by aggrieved settlers as breaching their constitutional right of control over government expenditure.

6.5 CHAPTER SUMMARY

This chapter has briefly explored the application of British oversight of colonial finances in the early eastern Australian settlements, particularly in regard to colonial and Imperial audit. It is demonstrated that these first Australian administrations suffered from mismanagement of government finances prior to the introduction of an on-site public sector audit role (a colonial auditor) in 1824 and the receipt of detailed instructions and reporting templates (Di Francesco, 1999; Longhurst, 1995; Scripps, 2006; Yule, 2002b). Public sector auditors operated under Treasury (Executive) control, fulfilling "the traditional function of state auditors, which is solely to confirm the formal correctness, the 'regularity'—as distinct from irregularity—of government accounts" (Normanton, 1966, p. xvi).

³⁸ Commissary-General for New South Wales and Van Diemen's Land for seven years from 1821.

There is no doubt that by the 1820s and 1830s colonial auditors in Australian public finance systems were considered essential for effective on-site oversight of government resources (Bunn and Gilchrist, 2013). Even so, colonial government continued to experience problems in managing public finances. Some of these problems arose from external pressures, such as the administrative "chaos" in Victoria ensuing from the sudden and huge population increases in the 1850s gold rushes (Yule, 2002a, p. 208). The Victorian Government's efforts to redress the serious financial crisis of 1854 (a deficit of over two million pounds), via increased attempts to collect unpopular gold licence fees, directly resulted in the Eureka Stockade events. "It is hard to believe that [Governor] Hotham would have persisted with the collection of an unpopular tax to the point of provoking a rebellion if he had not believed that the alternative was financial collapse" (Yule, 2002a, p. 214).

However, sometimes these problems arose from the "great ingenuity, and sometimes effrontery" of deliberate Executive efforts to evade Parliamentary control, as noted by Waugh (1998, p. 28) in case studies from New South Wales and Victoria in the 1860s and 1870s. The New South Wales experience provides both a background to the state of colonial administration and audit on the eve of the establishment of the Swan River colony and a lens through which to assess the experience of the Swan River colony. The remaining chapters of this thesis contain an examination of the efforts of the colonial government in Western Australia to control the expenditure of public funds. It is in this examination that the transition of the colonial auditor from a functionary of the Executive to that of an independent officer of Parliament can be traced.

CHAPTER 7

COLONIAL AUDIT IN WESTERN AUSTRALIA (1828-1878)

7.1 INTRODUCTION

This chapter examines the administrative operation of colonial audit and the control of Executive government expenditure in Western Australia, in the context of its constitutional governance under gubernatorial authoritarianism (1828-1838), a part-nominated Legislative Council (1839-1869) and under representative government (1870-1878). Increasing pressure from colonists for control over government expenditure is identified as a key factor in demands for representative government, and the subsequent political strategies implemented by elected representatives when it became clear that this form of governance still did not provide colonists with the expected control over Executive expenditure are discussed.

The third British colony in Australia was settled at Swan River, now Perth, Fremantle and Guildford, in Western Australia in June 1829.³⁹ A small military outpost had been established on the southern coast in 1826 at the deep harbour of King Georges Sound, now Albany, but it was at Swan River that Lieutenant Governor Stirling proclaimed the new colony. Unlike the two earlier colonies in New South Wales and Van Diemen's Land, Swan River was not established as a penal colony but as a private settlement, with land grants allocated to settlers according to the value of their imported assets.⁴⁰ The Swan River colony's foundation and development throughout the nineteenth century have been extensively written about elsewhere, including aspects of legislative, economic and political history.⁴¹ However, there is little research on the local government's financial management administration, especially in regard to the operation of public sector audit. The examination in this chapter identifies that attempts to obtain control of Executive

³⁹ A map of the south-western portion of Western Australia showing the relative positions of major settlements is provided at Appendix 7.

⁴⁰ Western Australia did eventually receive some convicts from Britain, principally to provide a source of labour, but the first did not arrive until June 1850 and the last ship in January 1868. For further information relating to the convict period, fruitful reference may be made to Bavin (1994); Bunn (1994); Hasluck (1978); Honnibal (2001); Macphail (2008); Phillips (1985) and Shaw (1966) (amongst others).

⁴¹ For example, see Battye (1912, 1924); Black (1991); Crowley (1960); de Garis (1981a); Hasluck (1965); Kimberly (1897); Lumb (1991); Macphail (2008); Stannage (1981); Statham (1980, 1981) and Statham-Drew (2003).

government financial expenditure were an ongoing feature of the legislative processes in Western Australia and were integral to its constitutional development.

7.2 EARLY FINANCIAL MANAGEMENT SYSTEM (1828–1835)

By the 1820s and 1830s, colonial auditors in the eastern Australian colonies were firmly entrenched within the Executive administration and providing effective on-site oversight of government resources. It is, perhaps, not surprising that the Swan River colony's Board of Audit was established as one of the first official instruments of the new government on the voyage out to Western Australia (Bunn and Gilchrist, 2013). Yet the first Lieutenant Governor of the Swan River colony, James Stirling,⁴² had not been given any detailed instructions on how to establish a system of government in the new colony. In fact, just before his departure from Britain, Stirling was specifically warned by the Secretary of State for the Colonies about "the absence of all Civil Institutions, Legislative, Judicial or Financial" he would face and it was made very clear that he would be expected to manage it "with your own firmness and discretion" (Murray to Stirling, 30 December 1828. Retrieved from <http://www.foundingdocs.gov.au>). In regards to the management of colonial finances, Stirling received no specific instructions apart from a general authority even though Governor Darling in New South Wales had received and implemented very detailed instructions from the Imperial Treasury almost two years earlier, in 1827. The Secretary of State had to defend Stirling in 1830, when Imperial Auditors queried why vouchers for the colony's first set of accounts had not been provided, admitting that Stirling "could not have been aware of the mode in which he was to account for all monies received by him" as he had not "been furnished with detailed instructions on that subject" (Hay to Dawson, 15 September 1830. T1/3426 (AJCP reel 1085)).

This apparent oversight by the Imperial government can perhaps be attributed to the rush in getting the new colony approved, equipped and on the way, and also perhaps because the Imperial government had no intention of financing the Swan River

⁴² Lieutenant Governor from December 1828 to February 1832; then Governor to January 1839. Stirling's tenure as Governor was interrupted for two years (August 1832-August 1834) when he left the Swan River colony on an extended visit to England; during this period successive administrators were appointed responsibility for the local government (Parliamentary Library WA, 2013a).

colony beyond the salaries of the small official establishment and a grant in aid (Battye, 1924; de Garis, 1981a). The lobbying for Britain to commence a colony in this location included the argument that a settler colony would soon become self-sufficient and a source of revenue to Britain, principally via land sales, rather than an expense (see, for example, Statham-Drew, 2003). The official notification from the Colonial Office to the Imperial Treasury, advising of the decision to establish the colony, specifically assured that the initial financial support would be minimal and short-term, and all preparations were being made "on the least expensive scale compatible with the nature & effectual accomplishment of the project in view" (Hay to Dawson, 31 December 1828. CO 397/1 (AJCP reel 303); T1/3426 (AJCP reel 1085)). Such Imperial parsimony was entirely in keeping with the growing concerns in Britain at the time over the cost of colonies and of government administration in general, as discussed in Chapter 5.

The Colonial Office approved a small civil list to assist Stirling in the government administration but did not include any officer responsible for financial management. Realising this omission, Stirling allocated audit and treasury functions to various officers already holding other positions in the official civil establishment, while en-route for Western Australia. Stirling formulated regulations for the Colonial Secretary that added the role of Acting Treasurer to his duties (Bryan and Bray, 1935; Bunn and Gilchrist, 2013). The Harbour Master, Surveyor-General and Registrar were appointed as Commissioners to "a Board of Counsel and Audit in the management of the property of the Crown and of public property within the settlement" (Government Notice, 8 June 1829, CSO, SROWA, Cons 49 v.1, no. 18).

This Board of Audit became responsible for examining and certifying official government accounts, and for providing valuations of the assets being imported by settlers that determined the amount of land they could be granted (Bowyer, 1966; Bunn and Gilchrist, 2013). In July 1831, Stirling abolished the Board of Counsel and Audit and separated its responsibilities into two new offices: an Auditor's Office and the Commissioners of Crown Lands (Bunn and Gilchrist, 2013). Stirling appointed one of the former Board members, Mark Currie, to be the first Colonial Auditor and to examine the quarterly accounts from departments "with reference to existing Regulations and according to the usual mode pursued in Auditing Accounts"

(Secretary to Audit Department, 11 July 1831, CSO, SROWA, Cons 49, v.3-4, no. 2167). Some details on the process to be followed in certifying and reporting the accounts were included, but the "existing Regulations" were not specified.

The financial management system implemented by Stirling therefore included a non-independent public sector audit function similar to the systems that had eventually been established in the older colonies (Di Francesco, 1999). A close examination of original official government records by Bunn and Gilchrist (2013) found no evidence to indicate the Swan River colony experienced serious mismanagement of public finances in its early years, other than minor clerical errors and administrative oversights—quite unlike the experiences of the earlier colonies in Australia. The early establishment of a financial management administrative system that included the operation of colonial audit as a check, and the fact that competent and ethical administrators were appointed to relevant government roles, were considered to be key factors in the colony's good management (Bunn and Gilchrist, 2013).

In early January 1832 Stirling at last received a despatch from the Colonial Office containing the formal Commission appointing him as Governor and Commander-in-Chief, instructions for him to appoint both a Legislative Council and an Executive Council to assist him with advice on the government administration, and a revised list of approved positions and salaries for the civil establishment (Battye, 1924; Bathurst to Stirling, 4 March 1831. Retrieved from <http://www.foundingdocs.gov.au>; Statham-Drew, 2003). However, an auditor was not included in the civil establishment. In order to maintain Currie on the civil list as Colonial Auditor, at the very first meeting of the Legislative Council, on 7 February 1832⁴³, Stirling had the colony's expenses as the principal agenda item and requested the Council to approve the appointment of a salaried Auditor—which, of course, they did (Statham-Drew, 2003). Stirling then reported to the Colonial Office on the arrangements he had made regarding the civil establishment and was able to justify the decision to keep an Auditor on the payroll because "my executive council on a due consideration of the case, advised me to continue him in the Office, at the salary aforesaid, & to recommend to your Lordship's notice the necessity of such an office" (Stirling to

⁴³ The Executive Council had met for the first time the previous day.

Goderich, 28 June 1832. Contained as attachment in Hay to Stewart, 25 April 1833. T1/3426 (AJCP reel 1086)).

In March 1831 the Imperial Treasury agreed to establish a Commissariat Department in Swan River, recognising "the increasing Extent of the Expenditure" and the consequent "great Importance of establishing an accurate & well Regulated System of Accounts" (Treasury to Hay, 8 March 1831. T1/3426 (AJCP reel 1085)). The officer in charge would also take on the role of Colonial Treasurer, being "charged with the Receipt & Expenditure of all public Monies", account keeping and reporting to the Treasury "at stated Periods, & according to the Forms & Regulations prescribed for Officers of the Commifsariat [*sic*] Department at foreign Stations" (Treasury to Hay, 8 March 1831. T1/3426 (AJCP reel 1085)). An audit function was not included in the responsibilities.

The Imperial Treasury appointed John Lewis as Deputy Assistant Commissary General (DACG) and approved the supply of appropriate equipment, including scales to weigh specie, brass and iron weights, two iron chests to store the cash (each with two separate locks and keys), measures for corn and spirits, and two office tables (Ordnance to Treasury, 26 August 1831. T1/3426 (AJCP reel 1086); Comptrollers to Treasury, 26 October 1831. T1/3426 (reel 1086)). The Colonial Secretary, Peter Brown (later Broun), had held the additional role of Acting Treasurer for three years and when DACG Lewis arrived in December 1831, preparations were made to hand over the work of the Colonial Treasurer (Lewis to Stirling, 30 December 1831, CSO, SROWA, Cons 36, v.19, no. 55). Stirling directed Lewis to commence his duties "without further Delay", including taking charge of receipt and expenditure of public money and keeping separate accounts for military and colonial affairs (Stirling to Lewis, 8 February 1832. CSO, SROWA, Cons 49 v.3-4, no. 2741).

However, the instruction to thus take on the role of Treasurer appears to have been a surprise to DACG Lewis, for the very same day he wrote to the Imperial Commissariat Office asserting he felt "perfectly incompetent" to take on the role and requesting that another officer be appointed "to relieve me from a Situation that will not only embarafs [*sic*] myself but do material injury to the public" (Lewis to Stewart, 8 February 1832. T1/3426 (AJCP reel 1086)). This anxiety was

unfounded.⁴⁴ Lewis was to continue his duties as DACG and Colonial Treasurer in the Swan River colony in an "able and efficient manner" until he obtained a promotion and returned to Britain in late 1839 ((1839, November 9). The Western Australian Journal. *Perth Gazette and Western Australian Journal*, p. 178).⁴⁵

Lewis also took on the responsibilities of Colonial Auditor, following the departure of Mark Currie in June 1832, although this appointment does not appear to have been officially recognised by the Colonial Office (Bowyer, 1966; Bunn and Gilchrist, 2013). Having the same person administer both the colonial audit and treasury functions was not ideal, even though in Britain at this point the Commissioners for Auditing the Public Accounts were still reporting to the Imperial Treasury. Throughout most of late 1832 and 1833, while Stirling was in Britain on leave, there were several discussions over the most efficient way to organise the colony's financial management arrangements between the Imperial departments of Treasury, Audit, Comptrollers of Ordnance, Colonial Office and with Governor Stirling. Eventually the various Imperial departments reached agreement on how to allocate the various responsibilities of the Colonial Treasurer, Auditor, Secretary, Commissariat and Collector of Revenue amongst the limited personnel in the colony, determined appropriate salaries and agreed on satisfactory accounting procedures that adequately distinguished the military and civil accounts and the Parliamentary grant. "Instructions regarding the Revenue & Expenditure, as well as the Establishments of your Government" were given directly to Stirling by the Colonial Office in July 1833, and the Audit Office developed further "Instructions to the Governor in regard to the future expenditure of that Settlement and the regular accounting for the same" which were approved by the Treasury in September 1833 (Stanley to Stirling, July 1833; Audit Office to Treasury, 29 August 1833; Treasury Minute, 10 September 1833. T1/3426 (AJCP reel 1086)).

⁴⁴ DACG Lewis was so concerned about his inadequacy for the role that he became quite unwell and was diagnosed in April 1832 with "derangement of the Digestive Organs and Hypochondriasis to such an extent as to endanger his life" (Milligan and Littleton, Surgeons, to Stirling, 6 April 1832. CSO, SROWA, Cons 36, v.21, no. 156). Today Lewis would probably be assessed as having severe anxiety and depression.

⁴⁵ There is a sad postscript. Lewis returned to Western Australia in March 1841 to oversee the establishment of a new branch of the Bank of Australasia but the pressure of the responsibility appears to have triggered another bout of "temporary derangement"—he committed suicide the day after its official opening ((1841, May 8). Died. *Perth Gazette and Western Australian Journal*, p. 2).

These new financial management arrangements were implemented by Stirling on his arrival back in the Swan River colony in August 1834 and the new civil establishment, salaries and general regulations for administration were published (Colonial Secretary's Office. (1834, August 30). Government Notice. *The Perth Gazette and Western Australian Journal*, pp. 345-346). DACG John Lewis was the official Colonial Treasurer, with an Assistant at King Georges Sound (Albany), and remained in charge of colonial and military funds and stores. Peter Brown, Colonial Secretary, also became Registrar of Deeds and Clerk of Council. A permanent Collector of Revenue (Henry Sutherland, with four regional assistants) was confirmed.

Only the Treasury and Revenue Collection departments were to hold responsibility for account and money transactions. The responsibility of auditing accounts was given to a two-person Committee, meeting once a month. "Two senior Members of Council (Capt. R. Daniell,...Commandant, and the Hon. P. Brown, Colonial Secretary,) have been appointed to audit the accounts relating to the collection and disbursement of Public Money" ((1834, October 11). *The Western Australian Journal. The Perth Gazette and Western Australian Journal*, p. 370). Following the local audit, quarterly accounts of receipts and disbursements were still to be sent to Britain every three months for final audit. By the end of 1835, then, an effective system of managing public finances, including a public sector audit function, was operating in Western Australia to the satisfaction of both Britain and the local administrators.

7.3 FINANCIAL CONTROL: NON-REPRESENTATIVE GOVERNMENT (1829–1838)

The Swan River colonists had no self-elected representation in their governance for many years. This section examines the desire of the colonists to obtain an elected representative government as a means to obtain what they considered to be their constitutional right to control over government expenditure. The theme occurs repeatedly from the very first year of the colony's Parliamentary body (1832) and throughout the many decades before the first elections for representatives to the Legislative Council (in 1870).

It has long been acknowledged that colonial governors operated as virtual autocrats in exercising their powers, an almost inevitable outcome given "the responsibility of government was centred, absolutely and exclusively, in the governor" (Todd, 1880, p. 24). The original Swan River Settlement Bill provided for the governor to hold sole command, but concerns about the risk of vesting arbitrary powers in the hands of the governor alone were raised during the House of Commons debate on the Bill and it was amended to include a requirement for "an auxiliary council, composed of two or three respectable individuals, nominated by the government at home" (UK, HC, April 6, 1829. Retrieved from Hansard (1829, p. 465)). Even so, for the first eighteen months of the settlement, Lieutenant Governor Stirling had no choice but to govern autocratically until he received Imperial authorisation in February 1832 to appoint both an Executive and a Legislative Council.⁴⁶

After 1832, Western Australia's formal government was constituted by the Executive and the Legislative Councils, both composed of exactly the same four men (in addition to the governor): the Officer Commanding the Troops, the Colonial Secretary, the Surveyor General and the Advocate General. Each official member was chosen and appointed by the Imperial government. The function of the Executive Council, as stated in Stirling's Commission, was to advise and assist in the administration of the government. The Legislative Council was empowered by 10 Geo. IV, c.22 (no. 63)—*Government of Western Australia Act 1829* to make and establish laws for the colony but, under the terms of the Order-in-Council, laws or ordinances for their consideration had first to be proposed by the governor (or his deputy) and were subject to disallowance by the Secretary of State in Britain.

Even though the Colonial Office acknowledged that a legislature without representation was an "invasion" upon the first principles of English law and necessitated direct Parliamentary sanction, this form of non-representative government in newly established colonies, wherein colonists had no direct representation on either Council, tended to be the "standard procedure" (Macphail, 2008, p. 44). Transition to a more representative form of government could be

⁴⁶ The *Government of Western Australia Act 1829* was not passed until after Stirling's fleet had sailed from Britain. A copy of this legislation, Stirling's Commission, and the Order-in-Council providing the constitution of the Legislative Council, were not received in Western Australia until late 1831.

granted by the British Parliament when a colony was considered to be more "mature"—the definition of which was never clear but which implied a settlement that was populous and financially self-sustaining, particularly in terms of being able to pay for its own legislature (see, for example, the requirements contained in the *Act for the better Government of Her Majesty's Australian Colonies 1850* (Imp.), discussed further below).

The financial operations of Executive government became, as they had been in seventeenth-century England, key motivating factors in popular agitation for representative government in Western Australia. Under the initial state of non-representative government, the Swan River colony's settlers had almost no control over the government's imposition of taxes or expenditure of revenue—even the Legislative Council meetings were closed to the public until 25 August 1834, unlike the Imperial Parliament. Until colonists "won the right to elect representatives, they protested, remonstrated and petitioned almost continuously" (Macphail, 2008, p. 54). Many of the settlers arriving in the Swan River colony would have been eligible to vote for a Parliamentary representative back in England, especially after the *Reform Act 1832* (Imp.) extended the franchise (see Chapter 4). It must have been frustrating for them to settle in the new colony, become large landowners and therefore persons of social importance, yet have very little say in how they were governed.

The claim that obtaining Parliamentary "power of the purse" was an important objective for colonists in obtaining representative government is supported by historical evidence from both Western Australia and other Crown colonies. Colonists across the British Empire frequently called for increased Parliamentary representation via public meetings, petitions and memorials (the few means colonists had of "voicing their objections", apart from initiating civil revolution as per the events in Britain in 1688 (Battye, 1924, pp. 194-195).⁴⁷ Between 1835 and 1846 the Colonial Office received no less than 22 separate petitions and memorials requesting representative government, from 10 separate British colonies—an average of more than two per year in this brief period alone (Colonial Office, 1846). The driving

⁴⁷ Petitions and memorials to the Secretary of State could be presented to the Governor and had to be then submitted to the Colonial Office for consideration (almost inevitably, of course, accompanied by an explanation from the Governor).

motivation in almost every one of these requests was the desire for financial control. The following statement from the Mayor of Georgetown, British Guiana, is typical:

We are no revolutionists, but only seek to obtain what has been found to be safe and beneficial elsewhere, *a direct control* in the enactment of the laws of the land, the levying of taxation and *the appropriation of the public money*. (Haynes to Gladstone, 17 March 1846 (Colonial Office, 1846, p. 82)) [emphasis added]

It was no different in Western Australia. In July 1832, less than six months after the formation of the Executive and Legislative Councils and their first meetings, a public call for representation on the Legislative Council was prompted by a government decision to impose certain taxes. The central argument of the settlers was the perceived abuse of the core constitutional principle that "no Englishman by British constitution should be taxed unless by his consent through representation" (Statham-Drew, 2003, p. 217). The Swan River colonists submitted this petition and a memorial to the Secretary of State, plus a strongly-worded formal protest to Stirling, all of which called for the tax to be rescinded and requested their own representatives to be a part of the Legislative Council (Macphail, 2008).

The subsequent discussions between Governor Stirling and the Colonial Office resulted in the Secretary of State deciding that enlarging the Legislative Council might have the advantages "of removing the irritation evinced by the Colonists, at the imposition of the Taxes...& with the view also of giving you the benefit of the efficient advice of experienced Settlers" (Goderich to Stirling, 8 March 1833, as cited in Macphail, 2008, p. 46). Stirling was asked to nominate two to four colonists, with experience and discretion on which he could rely, and he duly submitted names to the Colonial Office (Macphail, 2008). On his return to Western Australia in early 1835, Stirling presented the Legislative Council with the new constitutional arrangements approved by the Colonial Office for increasing Legislative Council membership with non-official members (that is, men not holding a government appointment, also known as nominee members). The official despatch stated the rationale for providing this "intermediate control" was that "a material improvement may be effected...which is mainly to insure to the Inhabitants of the Colony the proper degree of influence over the measures of the Local Government, more

especially in matters relating to *taxation* and *expenditure*" ((1835, January 10). Legislative Council. January 5, 1835. *The Perth Gazette and Western Australian Journal*, p. 422) [emphasis in original]. Further, annual estimates of expenditure of colonial revenue were now required to be presented to the Legislative Council for their consideration and detailed statements of income and expenditure were to be annually published in the Colonial Gazette.

The colonists were disappointed by the "intermediate control" granted in this arrangement and their dissatisfaction was expressed at a large public meeting held 16 February 1835, where "the real source of the trouble" was described as "unquestionably" the expectation that non-official members "would be elected and not nominated" (Battye, 1924, p. 136). A second memorial was drawn up for the Secretary of State. Also published locally; it bluntly stated that the proposed system of nominated representatives was not "in accordance with the spirit of the British Constitution", did not provide the colonists with "their constitutional right of returning their own delegates" and would not assure "a satisfactory outlay of the public funds, which, hitherto, we have to lament have not been applied with that regard to utility and economy which the circumstances of the colony required" ((1835, April 4). Memorial of the Colonists. *The Perth Gazette and Western Australian Journal*, pp. 471-472). This April 1835 memorial was sent to Britain in a despatch from Stirling to the Secretary of State dated 15 October 1835. The community frustration was so strong, in fact, "that the Governor was requested not to carry the provision for nominated members into effect" (Battye, 1924, p. 136). In consequence, a non-representative government without any non-official members continued to operate for almost a further four years until Governor Stirling's end of term. "Stirling's replacement, John Hutt, had been authorised by an Order in Council dated 1 August 1838 to swear in four non-official legislative councillors—and he did so on 4 January 1839 only three days after arriving in the colony" (Macphail, 2008, pp. 50-51).

The existing lack of transparency around the financial administration is indicated by the fact that some further extracts from the Secretary of State's response to the original petition were published in August 1835 to clarify the new procedures and to provide "a view of the line of policy the home government intend to pursue towards

us" ((1835, August 8). *The Western Australian Journal. The Perth Gazette and Western Australian Journal*, p. 542). The article included the new instructions for accounting procedures, the disbursement of money, and the requirement for providing quarterly accounts for local audit and then to Britain for final audit. Making such detail public was obviously considered newsworthy, compared to the response to similar new regulations in 1850 when the same newspaper reported that the *Government Gazette* had published "a long string of regulations respecting the method of keeping the Public Accounts, of no general interest" ((1850, August 14). *The Government Gazette. The Perth Gazette and Western Australian Journal*, p. 2).

The Legislative Council proceeded to make full use of the limited financial control it had received, despite the failure to achieve representative government. In March 1835 the Legislative Council was presented for the first time with an Estimate of expenditure for the subsequent year and asked to approve them as an Appropriation Act. The Estimates were promptly amended—against Governor Stirling's wishes—before being passed on 2 April 1835 (Macphail, 2008; Statham-Drew, 2003). The following year, in April 1836, the Legislative Council again disagreed with items in the Estimates for 1837-1838 and, as Stirling would not accept their proposed amendments, the matter was referred to the Secretary of State (Battye, 1924; Statham-Drew, 2003). Evidently a reply had not been received by June 1837, when the Estimates for the subsequent year were considered, as they were again disputed and referred to the Colonial Office (Battye, 1924; Statham-Drew, 2003).

As a direct result of the colonists' protests, from the late 1830s onwards the financial status of the Swan River colony was reasonably available to those interested. Regular publication of revenue and expenditure, signed by the Commissioners on the Colonial Board of Audit, meant that colonists could now determine from where funds were arriving and on what they were being spent.⁴⁸ The colony's financial information was also more readily available in Britain. For example, a despatch of Stirling's to the Colonial Office of 15 October 1837 included a detailed statistical report on the Swan River colony's financial status and extracts were published as

⁴⁸ For an example of the detailed quarterly accounts of government revenue and expenditure, see the newspaper article published at (1838, February 3). Abstract of Sums Received...; Statements of Disbursements Made.... *The Perth Gazette and Western Australian Journal*, p. 20.

returns to the House of Commons in 1838 and in Martin (1839) (Colonial Office, 1838a, 1838b). Nevertheless, colonists continued to agitate for a representative government that they believed would provide proper control of government expenditure, particularly when the regular practice of excess expenditure began.

7.3.1 The audit function in the 1840s

The workload of local audit came under consideration in the Legislative Council in 1843. Officially, the duty of auditing the public accounts was undertaken by a board of Council members—the Colonial Secretary and the Commander of the Troops (noted above). In reality, the majority of the work was undertaken by a senior clerk in the Colonial Secretary's office and, in discussion on the Estimates for 1844-1845, it was agreed to appoint this clerk as an Assistant Auditor (still reporting to the Colonial Secretary) ((1843, July 26). Legislative Council. 20th July, 1843. *The Inquirer*, p. 4; (1843, August 2). *The Inquirer*. *The Inquirer*, p. 2). In early 1844 it was announced that the Colonial Secretary, Peter Brown, was now also Colonial Auditor, thus confirming that audit responsibility was now on an individual rather than a Board—although that individual did hold a dual function as a member of Executive (Bowyer, 1966). Brown died in office in late 1846; soon afterwards the Assistant Auditor, William Knight, was appointed as Colonial Auditor (Colonial Secretary's Office. (1846, November 21). From the Government Gazette. *The Perth Gazette and Western Australian Journal*, p. 3). As the position remained within the Colonial Secretary's office it could in no way be considered as independent of Executive government, but from this point onwards in Western Australia the Colonial Auditor position was not held as a dual function of the Colonial Secretary.

Knight had initially commenced employment in the Civil Service in June 1831 and he was to hold office as Colonial Auditor until 1872. In July 1847, just a few months after Knight's appointment in November 1846 to the role of Colonial Auditor, a salary increase was proposed by a non-official member during discussions on the Estimates for 1847-48; the motion was not carried although Knight's efficiency and long service were highly praised (WA, LC, July 8, 1847, p. 471; (1847, July 10). Legislative Council. *The Perth Gazette and Western Australian Journal*, p. 3; (1847, July 14). Legislative Council. *The Inquirer*, pp. 3-4). The work of the Audit Office

continued to increase and in mid-1847 Edward Courthope was appointed as a clerk (Colonial Secretary's Office. (1847, July 10). From the Government Gazette. *The Perth Gazette and Western Australian Journal*, p. 1; (1847, July 14). Government Gazette. *The Inquirer*, p. 2). Courthope's appointment as a clerk to the Audit Office was criticised as a "reckless disregard of the public interest" because he was the brother-in-law of Governor Irwin ((1847, July 14). *The Inquirer*. *The Inquirer*, p. 2).⁴⁹ Later in 1847, *The Inquirer* also queried Knight's appointment as chair of the newly created Central Board of Works, noting: "The Chairman is Auditor General, and, as such, will therefore have to audit his own accounts—rather an anomalous proceeding" ((1847, November 17). *The Inquirer*. *The Inquirer*, p. 3).

These editorial comments are particularly interesting when it is remembered that the practice of having the Colonial Secretary also hold the position of Colonial Auditor had not long been separated, indicating that community understanding of the audit role (and acceptance of nepotism in government appointments) was shifting.

7.4 EXCESS EXPENDITURE

As noted above, the Executive was required, from 1835, to present the Legislative Council with its annual estimates of expenditure for approval. From the 1840s onwards, the Executive also began to present the Legislative Council with requests for approval of expenditure incurred in excess of the officially voted estimates. If this occurred prior to the expenditure actually being made, the request was in the form of a Supplementary Appropriation.

To some extent the need for Supplementary Appropriations is acceptable practice, as even the most accurate forecasting of future needs cannot provide for unexpected events and this process still requires Legislative approval prior to the actual expenditure being incurred. Of more concern to colonists was the habit that began in Western Australia for the Executive to annually present the Legislative Council with bills for excess expenditure: seeking retrospective legislative approval for the expenditure of public funds over and above the pre-approved appropriation after the

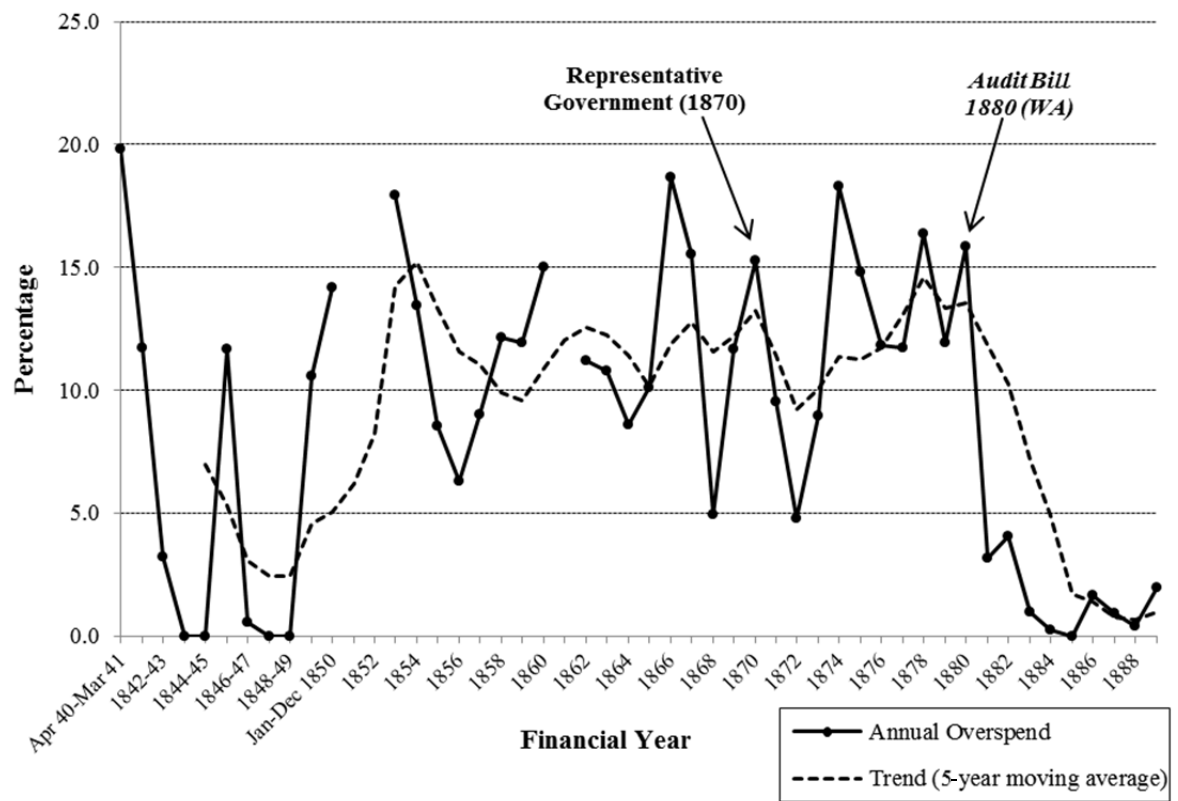
⁴⁹ Nevertheless Courthope's ability in the Audit Office was proved by time as in 1872 he replaced Knight as Auditor and served in that role until 1891.

actual expenditure. This practice occurred repeatedly in spite of the fact that colonial governors were expressly forbidden to spend funds without prior legislative approval except in an emergency—a policy based on the constitutional doctrine that one of the foundations of proper governance is that governments cannot spend money without Parliamentary approval.

It is a counterpart to the principle, found in article 4 of the Bill of Rights 1689 (UK), that an act of parliament is needed to authorise taxation. Together, these doctrines enforce a measure of executive responsibility to parliament for government finance. Despite the constitutional importance of this principle, at times the government may prefer not to have to comply with it. (Waugh, 1998, p. 1)

To understand the impact of this practice and its effect on both the financial administrative practices and constitutional reforms in colonial Western Australia, it is worth examining in some detail. To this end, the proportion of excess expenditure to estimated expenditure, approved in Appropriation Acts, was calculated as a percentage and compared for each financial year from 1835 to 1893 (see Appendix 7 for further details). The results for all financial years 1840-1841 to 1889 are shown in Figure 7.1, below, including a five-year moving average trend line.

Figure 7.1: Percentage of excess to estimated expenditure, approved in appropriation acts, WA, per year 1840-1841 to 1889



Note (i): Figure 7.1: Percentage of excess to estimated expenditure, WA, per year 1841-1889. Data source: Annual appropriation acts (WA). Retrieved from <https://www.slp.wa.gov.au/legislation/statutes.nsf/default.html>. Full data set in Appendix 7.

Note (ii): three datum points above 25.0% removed as outliers (1851: 94.2%; 1852: 26.3%; 1861: 42.5%).

The trend line (a five-year moving average) indicates that the annual excess expenditure was approximately between 10% and 15% every single year from 1852 to 1880. From 1881 the trend shows a sharp decrease to below five per cent each year. The only singular event that explains this dramatic and sustained diminution in Executive overspending is the attempted passage in 1880 of audit legislation that would provide an independent Auditor General reporting to Parliament (*Audit Bill 1880*), and the actual passage in 1881 of the *Audit Act 1881* (WA).

Other possible explanations are readily dismissed by the consistency of the trend line in Figure 7.1. Firstly, the administrative expertise of the respective governors cannot

be considered as influential. A total of 11 men held the position between 1839 and 1889 and plotting their terms of government across the time-frame displayed in Figure 7.1 (not shown) reveals no direct correlation, other than they all requested retrospective approval of government expenditure. For example, Governor Robinson had two terms of office in this period, both before and after the trend decrease, and presented large excess bills in each. In his first term, 1875-1877, he presented three excess bills for approval with an average annual overspend of 14.9%. In his second term, 1880-1883, he presented two excess bills (for the 1879 and 1880 financial years) that averaged 13.9%. The excess bill he presented for approval in 1882 (for the 1881 financial year) was not approved by the Legislative Council until being re-presented several years later (discussed in detail later).

Gaining nominee representation in the Legislative Council in 1839 did not prevent the Executive from over-spending the approved appropriations except in two years, 1843-1844 and 1844-1845. Although there was no excess expenditure for either 1847-1848 or 1848-1849, supplementary appropriations were required for both these financial years.

The period of convict administration, 1850-1868, did not have any apparent effect on the annual proportion of excess expenditure. There was a small decrease in 1872, which could possibly be attributed to the implementation of representative government in 1870, but this decrease was not maintained and subsequently followed by sharp increases.

The low levels of excess expenditure after the passage of the *Audit Act 1881* (WA) quickly became accepted as standard. This is demonstrated by the fact that the excess expenditure for 1886 was described in the Registrar General's *Western Australian Year Book* as a "very large expenditure" that was "considerably over the original Estimates" for 1886 (Knight, 1887, p. 9). However, Figure 7.1 shows that this apparently extraordinary level of excess expenditure was just 1.6% of the estimated expenditure and a mere fraction of the excess expenditure incurred during the previous decades.

The remainder of this chapter discusses some of the efforts for control of government expenditure in the years prior to the introduction of the *Audit Bill 1880* (WA), under both nominated and representative forms of government.

7.5 FINANCIAL CONTROL: NOMINATED MEMBERSHIP (1839-1869)

The continuing theme here is that poor financial management, combined with the constitutional expectation of "no taxation without representation", meant that the maturation of public audit requirements was an integral part of the development of responsible government in Western Australia. The following examples highlight the ongoing attempts of the settlers to obtain some control over Executive expenditure and their frustration over the ineffectiveness of nominated representatives in the Legislative Council to provide that.

The inclusion of nominated, non-official representatives in the Legislative Council of Western Australia was approved by the Colonial Office in March 1833 and implemented after Governor Stirling's resignation in March 1838 (Statham-Drew, 2003). Four men⁵⁰ nominated by Stirling were sworn in as non-official members in March 1839, at the first meeting of the Legislative Council after Governor John Hutt's⁵¹ arrival, with a term of office for the duration of their residence in Western Australia, "notwithstanding the opposition of the colonists to any increase in that body except by means of an election" (Battye, 1924, p. 147; Macphail, 2008).

This constitutional amendment meant equal numbers of the official and non-official members on the Legislative Council. However, the governor possessed a casting vote on any matter so the power to make and pass any law—including the Appropriation Acts approving financial expenditure—remained with Executive government. Executive control remained the status quo throughout various changes and amendments to the Council constitution during the 1840s (Macphail, 2008).

⁵⁰ The first woman to be a member of Western Australia's Parliament was Edith Cowan, in March 1921 (also the second female member of any Parliament in the British Empire) (Parliamentary Library WA, 2013b).

⁵¹ Western Australia's second Governor (January 1839 to February 1846).

Nevertheless, the "augmented" Legislative Council was able to exert a measure of control over the Executive and "proved even more obstructive than the wholly official Council had been" (de Garis, 1981a, p. 318). The struggles between the official Executive and non-official (nominated) members over the control of finances and the role of the Colonial Auditor were particularly evident in Legislative Council debates on colonial estimates, as the Executive was required to present the Legislature with estimates for the expected expenditure and revenue of the following financial year. The Legislative Council hence had the opportunity for input into the proposed expenditure of public funds and, when satisfied, the power to approve the estimated expenditure via an Appropriation Act. This process of pre-approval for government expenditure fulfilled the constitutional requirement (in theory only, as the non-official members could not out-vote the Executive, as noted above) and the passage of appropriation became one of the primary purposes for which a Parliamentary session was called by the governor. In May 1839 the first formal Appropriation Act was passed by the Legislative Council, approving expenditure of £5,121 for the 1840-1841 financial year (2 Vic., No. 8—*Appropriation Act 1839* (WA)).

The following year, in May 1840, Governor Hutt presented the Legislative Council with Estimates for the subsequent April 1841 to March 1842 financial year and advised that, although they were only six weeks into the current year, the expenditure had already exceeded the approved £5,121 by £1,620 (WA, LC, May 18, 1840). As a consequence, the Council would be required to consider a supplementary estimate of £3,046 to provide for the remainder of the current financial year (bringing the total amount required for expenditure in 1840-1841 to £8,167). Hutt noted he "should have much rather to have shown that the limits to the Expenditure had been maintained", but he trusted that the "transgression" would be "allowed" by the Council as having been required for "the good of the public service" (WA, LC, May 18, 1840, p. 134).

At least one non-official member, William Tanner, was not happy about this request to approve, so soon into the financial year, a sum that almost doubled the amount previously authorised and of which almost 20% had already been spent. Tanner promptly gave notice that he would move "for an enquiry into the power of the

Legislative Council over the Revenue of the Colony" (WA, LC, May 20, 1840, p. 137). Governor Hutt explained that "he would not consider himself justified in incurring any expenditure without the sanction of the Legislative Council having been previously obtained except on an emergency where the good of the public service required it" (WA, LC, June 16, 1840, p. 139). Such regret was understandable, both because the items requiring the additional expenditure were difficult to explain as "an emergency"⁵² and because requesting additional appropriation except under those circumstances had been expressly forbidden in the March 1833 despatch from the Colonial Office ("No further Disbursements on account of the Services for that year must be applied for, unless under circumstances of unforeseen emergency" ((1835, January 10). Legislative Council. January 5, 1835. *The Perth Gazette and Western Australian Journal*, p. 422). Governor Hutt and the Executive were, depending on the definition of "emergency", quite possibly breaching the colony's constitutional provisions. Nevertheless, Hutt's promise that the Legislative Council would have "an opportunity of recording their sentiments of the necessity for the expenditure" must have appeased Tanner, for he withdrew his motion for an inquiry (WA, LC, June 16, 1840, p. 139). The 4 Vic., No. 3—*Appropriation Act 1840* (WA) passed without any recorded comments.

Governor Hutt presented pessimistic Estimates for 1845-1846 to the Legislative Council in 1844 and appointed a Select Committee to investigate the overall state of financial affairs and identify strategies for increasing colonial revenue (WA, LC, May 30, 1844, pp. 335-336).⁵³ The Committee recommended reducing the proposed expenditure, primarily via cuts to the contingency list, and increasing revenue by additional duties on imports (WA, LC, July 4, 1844, pp. 346-347). These strategies were supported by the Legislative Council but not by Governor Hutt, who "made strenuous objections" but eventually assented when the Legislative Council held firm (Battye, 1924, p. 171). The Legislative Council's obstinacy in reducing Hutt's original Estimate for 1845-1846 was vindicated when the revenue did not reach even the amended Estimate and did not cover expenditure (Battye, 1924). This example

⁵² This "excess" expenditure had been spent on items such as Hutt's own recent tour of the settlement, furniture for public offices, various salaries and gratuities and an increase in the cost of mail conveyance (WA, LC, May 18, 1840, pp. 132-133).

⁵³ The mid-1840s in Western Australia were a period of economic depression, primarily due to a lack of circulating specie in the colony (see Butlin (1953)).

demonstrates that exercising their authority over the colony's financial status was important enough to Legislative Council members to justify their questioning of the governor's judgement.

In July 1848, Governor Irwin presented a Supplementary Estimate of £1,422 for 1848-1849 (12 Vic., No. 5—*Appropriation Act 1848* (WA)). As the original Estimates bill for 1848-1849 had been passed only in March the same year (for £9,500), this additional request was met with "much discussion" and some incredulity: a non-official member stated outright that he "did not like the idea of Supplementary Estimates of expenditure, which pressed on the public. Why were they not embodied in the bill that had been already passed? The Council was taken by surprise" ((1848, July 29). Legislative Council, Thursday, July 27. *The Perth Gazette and Independent Journal of Politics and News*, p. 3). The attitude of Governor Irwin contrasted sharply to that of Governor Hutt in similar circumstances in 1840, perhaps reflecting a shift in Executive acceptance of the constitutional right of the people to have a voice in the expenditure. Yet there was little the non-official members of the Legislative Council could do but agree to the additional expenditure.

In the same year (1848) a non-official member called for a committee to review the constitution of the Legislative Council and found the Council's membership was now distinctly skewed with seven salaried (official) Crown officers and three unsalaried non-official (nominee) colonists (Macphail, 2008). The Executive thus held "absolute power" in the Legislative Council and it was impossible for non-official members to achieve their "sole object...that a *unanimous* negative of the unsalaried colonists should have a similar effect to the veto of the Governor" ((1848, July 29). Legislative Council, Tuesday, July 25. *The Perth Gazette and Independent Journal of Politics and News*, p. 3) [emphasis in original]. For that reason, the Legislative Council resolved to request an additional three to four non-official members. This resolution and the Committee's report were forwarded to the Secretary of State with Governor Irwin's support; however, Governor Fitzgerald arrived only a few weeks later and criticised the proposal in one of his first despatches to Britain (Battye, 1924; Macphail, 2008). Not surprisingly, then, the Colonial Office did not support the increase and the Executive continued their control (Macphail, 2008).

Settlers protested again in July 1849 about their lack of representation in Parliament, in a large public meeting triggered by contentious government proposals for new land regulations. The meeting agreed to prepare a memorial to the Colonial Office expressing a lack of confidence in the government, but this did not eventuate as the Executive quickly responded to the public pressure by amending the planned regulations (Battye, 1924; Macphail, 2008).

The practice of presenting supplementary estimates continued throughout the 1850s. However, the passage in 1850 of *An Act for the better Government of Her Majesty's Australian Colonies 1850* (Imp.) was to have an important, albeit long-delayed, impact on Western Australian governance. This 1850 legislation permitted the Crown colonies of South Australia, Van Diemen's Land and the Port Phillip district (Victoria) to establish their own Legislative Councils, partially elected by the colonists.⁵⁴ It provided the Crown colony of Western Australia with a separate mechanism for establishing a representative government: obtaining approval from at least one-third of the householders and providing for all the expenses of government out of their own revenue, including those expenses covered by the Imperial government annual grant (Battye, 1924). The other three colonies were quick to implement the provisions, but Western Australia was not. The major obstacle was the cost, but others have also noted the newly-acquired status as a penal colony (see below), the limited population and the rudimentary transport and communication systems (see, for example, Macphail (2008)). Nevertheless, this legislation finally provided clear instructions on how Western Australia could gain representative government and this was to prove useful during the next two decades as settlers increasingly demanded a voice on the Legislative Council.

In November 1849, it became public knowledge in Western Australia that the Imperial government had nominated it as a place to which convicts could be sent, with the entire expense to be defrayed by Britain (Battye, 1924). In the following 18 years, almost 10,000 male convicts arrived in Western Australia from Britain (Shaw,

⁵⁴ The New South Wales colony had already been granted a partially representative Parliament in 1842, with the passage of 5 & 6 Vic., c.76—*Australian Constitutions Act 1842* (Imp.).

1966).⁵⁵ The effect on local government administrative structures was immediate. For example, the introduction of an Imperial Convict Establishment added 20 names within a year to the 79 people drawing a regular salary from the public purse in early 1850 (Honnibal, 2001).⁵⁶ In August 1850, amended regulations "for keeping and rendering the Public Accounts of Receipts and Expenditure in the Colony to be observed by the Heads of Departments etc" were implemented ((1850, August 14). The Government Gazette. *The Inquirer*, p. 2; (1850, August 16). The Government Gazette. *The Perth Gazette and Independent Journal of Politics and News*, p. 2). Financial administration was further amended in April 1851 by the formation of a Convict Finance Board "with strict injunctions to prevent anything in the way of extravagance", comprised of the Comptroller General, the Deputy Commissary General and the Colonial Secretary as chairperson (Battye, 1924, p. 210) (see also Honnibal (2001)).

As noted above, Imperial Britain paid for the convict expenses, which meant convict accounts needed to be kept separately from the colonial and military expenses. Ultimate responsibility for convict accounts rested with the governor and, to protect himself, Governor Fitzgerald authorised the Auditor General to audit these additional accounts as a safeguard prior to providing his own approval. For this extra work, Fitzgerald granted the Auditor General a salary increase in May 1851 of £100, payable from the convict funds (WA, LC, May 14, 1851 p. 609).

This was just one of several permanent salary increases to public officers that were approved in the discussion on the Estimates in May 1851 (WA, LC, May 15, 1851, p. 615). The colonists were not impressed. Describing the pay rises as a "perversion of the Colonial Funds", some fifty or more people protested at the subsequent Council meeting where they were assured by Governor Fitzgerald of the need and financial sense of the arrangement ((1851, May 28). *The Inquirer*, p. 1S). Unconvinced, *The Perth Gazette* published in August 1851 a petition of complaint on the topic along with the names of those who signed it; the editorial noted that although they had little

⁵⁵ No women or children were transported as convicts to Western Australia. As a comparison of numbers, between 1850 and 1853 the final 9,000 male and female convicts arrived in Van Diemen's Land (and another almost 300 male convicts in Moreton Bay, in New South Wales) (Shaw, 1966).

⁵⁶ The Convict Establishment oversaw not only the actual convicts but also their guards, who were accompanied by their families, and military engineers to oversee the construction of various civil works using convict labour (Honnibal, 2001).

doubt that Britain would confirm the Estimates as voted, "the introduction of a Representative Legislature is the only safeguard we can look to against the repetition of similar occurrences" ((1851, August 29). *The Independent Journal. The Perth Gazette and Independent Journal of Politics and News*, p. 2).

Three Appropriation Acts were passed to cover expenditure in the 1852 financial year: the standard Appropriation Act in May 1851, a Supplementary Estimate in May 1852 and another "Supplementary" Estimate in December 1852. The last two Acts more than doubled the original estimate of expenditure for 1852, and as the third was passed in the last few weeks of the financial year it was clearly post-expenditure. Worse was to come, however. The government's expenditure in 1853 had to be covered by four Appropriation Acts: the original Appropriation Act in May 1852, two Supplementary Estimates in April and May 1853, and in May 1854 (five months after the end of the 1853 financial year), an Excess Act for almost 18% of the total pre-expenditure amounts.⁵⁷ Governor Fitzgerald's opening speech to the Legislative Council in May 1854 admitted that "circumstances beyond the control of Government have caused an excess of expenditure over the appropriation— explanation of this matter will be afforded to you at the proper time...when the Supplementary Estimate [the Excess Bill for 1853] is under consideration" (WA, LC, May 4, 1854, p. 706). He did not consider this excess expenditure to be a problem, however, as the revenue had still exceeded expenditure, and promptly advised he would be proposing yet another Supplementary Estimate Bill to cover additional expenditure in the current year. The reaction to these events was not positive. Marshall Clifton, a non-official member and the effective leader of the opposition, was scathing in his response:

Expenditure should be restricted to the amount voted, and not extended without the authority of this Council, because the Revenue had yielded more than had been estimated. Here, notwithstanding the liberal sum for the expenditure of this year, voted last, we were now, in the early part of the year, called upon to vote a supplementary estimate of upwards of £12,000, half of which...was for objects not

⁵⁷ The Ordinance approving the excess expenditure in 1853 (17 Vic., No. 15—*Appropriation 1854* (WA)) was the first time this ongoing practice was formally called an Excess Bill. As described above, previous instances had been termed "Supplementary" appropriations even if the money had already been expended. It was not to be the last time. Thereafter Excess Bills were put forward during the annual Estimates procedure every year until late into the nineteenth century (see Appendix 8).

contemplated when the annual estimate was voted, and in fact included sums already expended, without the authority of the Council....In fact, he was now determined to get the Constitution of the Council altered...so that we might be in a condition to regulate our own expenditure, and control the Executive. ((1854, May 24). Legislative Council, Monday, May 22nd. *The Inquirer*, p. 2S)

Despite his fervour, Clifton was unable to take any further advantage and it seems he did not have much public support. The other newspaper in the colony at the time reported on his speech merely as: "Mr Clifton rose and made a lengthy comment upon the Estimate, which we are unable to follow him through" ((1854, May 26). Legislative Council. Monday, May, 22, 1854. *The Perth Gazette and Independent Journal of Politics and News*, p. 3).

Governor Fitzgerald advised the Legislative Council the following year that "our fiscal resources have fallen considerably short of your Estimates" (WA, LC, March 30, 1855, p. 741). It would, therefore, be necessary to pass a bill "to provide for an excess of Expenditure in 1854 over and above the Estimates", plus another bill "to provide for the payment of certain unforeseen expenses in the Year 1855, and also for the appropriation of the Revenue for the year 1856" (WA, LC, April 13, 1855, p. 752; April 17, 1855, p. 756). *The Inquirer* newspaper was critical of the Colonial Secretary's financial capability, suggesting he should take the trouble to get a better briefing from the Colonial Auditor on the Supplementary Estimates than he had the previous year ((1855, April 4). *The Inquirer*. *The Inquirer*, p. 2). Governor Fitzgerald's final address to the Legislative Council, in April 1855, expressed a wish that he had been able, before his term of office expired, to provide a more satisfactory view of the colony's fiscal position because "it cannot be concealed that the Revenue of the past year has fallen short of your Estimate by £2,000, and that at the close of the year...we are in debt £1,800"—a minor inconvenience only (WA, LC, April 26, 1855, p. 766).

The incoming Governor Kennedy, arriving in July 1855, informed the Legislative Council in September 1855 he had found massive debt, the current budget already overspent, and a consequent need for retrenchments in the public administration (Battye, 1924). The Colonial Office was also unimpressed and in January 1856 censured Fitzgerald for submitting inaccurate Estimates for 1856 ((1856, June 18).

Saturday, June 14, 1856. *The Inquirer and Commercial News*, p. 3; (1856, June 20). *The Perth Gazette and Independent Journal of Politics and News*, p. 2). *The Inquirer* newspaper, nonetheless, was reluctant to blame Governor Fitzgerald, considering the real offender to be the Legislative Council for not having amended the accounts when brought before it. This, claimed the Editor was why settlers were dissatisfied and "demanding a Representative Assembly, as the only cure for existing evils" ((1856, June 18). *The Inquirer & Commercial News*. *The Inquirer and Commercial News*, p. 2).

The contrasting opinions of Governors Fitzgerald and Kennedy regarding the colony's finances (above) were the beginning of a definite pattern over the next decades, where incoming governors complained about their predecessor's financial management, made definite statements regarding their intention to manage more efficiently, and in their final address noted how much they had improved the colony during their term. In November 1859, Kennedy tabled a despatch from the Secretary of State praising him (Kennedy) for his good financial management (WA, LC, November 7, 1859, p. 921). Nevertheless, after Kennedy's term of office ended in early 1862, his replacement (Governor Hampton) found what Boyce (1966) described as an "acutely embarrassed treasury" and was "not only unable to authorise new works for 1862, but had to submit measures for legalising £25,375 unauthorised expenditure on the part of his predecessor" (Battye, 1924, p. 255).⁵⁸

Governor Hampton served from February 1862 to November 1868. In his opening address to the Western Australian Parliament, he expressed reluctance at being "forced to spend public money without legislative authority" on contracts made by Governor Kennedy for 1861, and that the "only constitutional remedy that could be adopted at present" was "to sanction the continuance of this irregularity until the exact amount of the excess can be ascertained, and a Supplementary Estimate thereof submitted to the Legislative Council" (WA, LC, May 23, 1862, pp. 1001-1002). The amount of excess expenditure in this instance was 42.5% above the Estimates approved in October. It included almost £11,000 for "Roads and Bridges" and almost £6,000 for "Works and Buildings" and it is difficult to believe this was unforeseen,

⁵⁸ Battye cites Legislative Council 3 June 1862; *Perth Gazette* 6 June 1862. See also Kimberly (1897).

emergency expenditure. In the subsequent five years of Governor Hampton's term the Legislative Council was presented with annual excess bills averaging 14.9% above approved appropriations.⁵⁹

Colonists expressed serious concerns over government expenditure throughout Hampton's term and repeatedly called for a representative legislature as a solution that would give them financial control, particularly after it became known in 1864 that transportation would cease in three years (de Garis, 1981a). Petitions requesting constitutional change were sent to Britain in 1865 and 1869, and Governor Hampton's despatches in July, August and December 1865 all included references to his concerns about the growing popular demand for a representative form of government (Battye, 1924; de Garis, 1981a; Macphail, 2008). Settlers finally received a partial granting of their desire in September 1867 when Governor Hampton agreed to match the number of official members in the Legislative Council by nominating six non-official representatives, who were chosen by the colonists via informal elections held later that year (Battye, 1924; de Garis, 1981a; Macphail, 2008).

Governor Hampton departed in November 1868 and, in the nine-month interval before Governor Weld's arrival, the Legislative Council prepared a draft plan for dividing the colony into electoral districts. The legislation formulating the constitution of a representative Legislative Council was debated in May 1870 and assented to in June (33 Vic., No. 13—*Legislative Council Act 1870* (WA)).

7.6 FINANCIAL CONTROL: REPRESENTATIVE GOVERNMENT (1870-1878)

The expectation that a representative government would enable the Legislative Council to implement a control over Executive expenditure was short-lived. Elected members sought throughout the 1870s for other mechanisms to gain the desired control including Select Committees, increases in the numbers of elected representatives and placing the Auditor General as an independent officer of Parliament. These various mechanisms are examined in this section. Underlying all

⁵⁹ Source: Appropriation Acts (WA): see Appendix 8.

of these measures was an ongoing struggle for a fully responsible form of government, for if obtaining a representative government was not sufficient to provide them with an effective voice in their Parliament, colonists needed the next step (de Garis, 1981a; Kimberly, 1897).

The first Parliamentary session of the newly representative government of Western Australia opened in December 1870, following elections for representatives. The governor was no longer a member, being represented in the Legislative Council by the Colonial Secretary, but still "retained the power to prorogue or dissolve the Council at will and to veto legislation. Only he could introduce bills for the appropriation of public money" (de Garis, 1981a, p. 327). The real shift, however, was that elected representatives now outnumbered the official government and nominee members and the "old methods of agitating by public meetings and memorials were now largely obviated by the power which colonists had in their Representative Chamber" (Kimberly, 1897, p. 225). There were now 18 members in total: 12 elected from 10 districts (two representatives each from Perth and Fremantle); three nominated by the governor (serving five-year terms); and three official members (the Colonial Secretary, Surveyor General, and the Attorney General) (de Garis, 1981a). The Colonial Treasurer and Collector of Revenue no longer held a seat, also being represented in the Legislative Council by the Colonial Secretary.

Political power was now far more equally divided between the "two parties in the House" (Battye, 1924, p. 285). The Colonial Secretary acted as "the leader of the Government" and was supported by the official, nominee and conservative members. J. G. Lee Steere was the effective leader of the opposition, "determined to exercise to the full the legislative powers conferred upon it" (Battye, 1924, p. 285). Those "legislative powers" were perfectly understood to be about the control of government expenditure. Indeed, in the very first Parliamentary session with elected representatives, the Parliament called—for the first time in Western Australia—for an independent officer to provide a check on Executive expenditure. It is difficult to think that the timing could be a coincidence. The elected Speaker, Luke Leake, asserted the Opposition's intent to examine the Estimates in close detail and called for the appointment of

some officer...responsible to the House who should see that not one farthing was paid out of the colonial chest by the Colonial Treasurer, unless he could vouch that the sum was on the Estimates, and if it were done, to be his duty to bring it under the notice of the House. (WA, LC, December 8, 1870, p. 24)

Leake's call was backed up by Lee Steere, who reiterated the constitutional point that excess expenditure should not have occurred without Legislative Council sanction and nominated the Auditor General as that independent officer.

It was now their duty to put a stop to such unauthorized expenditure. In his opinion, *the Auditor General should be independent of the Government and responsible to the House*, and the Government should not be allowed to pay one single item without the sanction of the Council, and the Auditor General should not be allowed to pass any such account, and further should be made responsible to the House (WA, LC, December 9, 1870, p. 25) [emphasis added].

This proposition was met with spirited argument from government members, even though an independent Auditor General, reporting directly to the Legislature and operating to provide a check on Executive expenditure, already existed elsewhere at the time (late 1870). Audit legislation providing at least some independence provisions had been enacted years earlier in Victoria (in 1857 and 1859), Tasmania (1858), Queensland (1861) and in Britain (1866) (Di Francesco, 1999). As the Legislative Council was only partly representative in Western Australia, this colony did not have the apparent authority to appoint such an officer—a right reserved in the constitution for the governor. The actual arguments expressed by members were a mix of this specific constitutional principle, the immediately pragmatic, and the longer term political view. For example, the Attorney-General declared "it would simply be impossible" to make the Auditor General independent of the Governor, "it was simply the first step towards Responsible Government", and appointing "an officer who would be responsible to the House and irresponsible to the Governor would be an imperium in imperia. The Governor would be dethroned and his seat occupied by the Auditor General" (WA, LC, December 9, 1870, p. 30; 37). The Colonial Secretary agreed. "The Governor alone was responsible for the expenditure of the public funds. There could be no go-between...It would be impossible to have an officer of the Government responsible to the House and irresponsible to the Governor" (WA, LC, December 9, 1870, p. 32). To break the impasse, the Colonial

Secretary proposed a compromise via a resolution specifying the respective rights and responsibilities of the Legislative Council and the government regarding financial management. The first clause was readily accepted as it confirmed the already-existing constitutional power balance, that is:

It is the undoubted right of this Council to appropriate all revenue appertaining to this Colony and to limit its expenditure, and that it is the duty of the Executive to adhere to such appropriation and limitation, when the Appropriation Act has become law. (WA, LC, January 2, 1871, p. 65)

The second clause was also accepted, especially as it resolved the Colonial Secretary's somewhat disingenuous assertion that the governor had no choice except to authorise the excess expenditure currently in question, because the funds had been required immediately and the Council had not been in session so could not be consulted to obtain approval (WA, LC, December 9, 1870, p. 32).

That, with a view to the exercise of a proper control over the Public Funds, and in order to allow as little latitude to the Executive as is consistent with the exigencies of the Public Service, ...it will be the duty of the Government to summon this Council with the least possible delay at any time, should excess of expenditure become necessary, or even imminent. (WA, LC, January 2, 1871, p. 65)

The remaining two clauses were more contentious. The Council was required to approve Executive government expenditure of up to £3,000 above the approved appropriation for "sudden emergencies", and the Executive was further authorised to use its discretion on expenditure in excess of that sum "provided, always, that an exact account of such expenditure be laid on the Table of the House within ten days of the opening of the ensuing Session" (WA, LC, January 2, 1871, p. 65). The Opposition moved an amendment to have these two clauses struck out, but were defeated and the resolution was eventually passed.

There was no further discussion in this session on the idea of Parliament obtaining an independent officer to watch over expenditure. A question of audit procedure, however, remained. The new constitution meant that Western Australia was no longer classified as a Crown colony and it was no longer necessary for its accounts to

be audited in Britain. Governor Weld advised he was corresponding with Britain on "the conduct of the business of the Audit and Treasury in this Colony" and, in the meantime, he relieved the Auditor General of the Registrar General duties which had been transferred to the office in 1861 (WA, LC, January 16, 1871, p. 114; Kimberly, 1897).⁶⁰

It is not altogether surprising that Weld sought clarification from Imperial Britain over the respective roles of colonial auditors and treasurers, as a similar lack of demarcation was evident in other Australian colonies. In 1881, the Controller and Auditor General of New Zealand tabled in Parliament a detailed Report reviewing the management, accounts and public revenue audit processes in six colonies, and concluded that "the relative functions of the Treasury and the administrative departments seem to be nowhere sufficiently defined", and he had been unable to find any useful "rule" regarding "the accounts which should be kept by the Audit Office" (Fitzgerald, 1881, pp. 154; 156).⁶¹

In Western Australia, it is evident the transition to representative government made little difference to the Executive's firm control over the Colonial Auditor. William Knight, Colonial Auditor in Western Australia 1846-1872,⁶² expressed his opinion some years later that the constitutional change had not required him to question the legality of expenditure authorised by the governor. His role continued to be one of compliance with the governor's warrant and he held no authority to identify or prevent excess expenditure:

No fresh instructions were given as to the manner of keeping the accounts after the present constitution [representative government] was established....The system of audit I worked under was merely to classify the revenue and expenditure under different heads, without

⁶⁰ A new department was created, Registrar General and Register of Deeds, to be held by the Secretary of the Board of Education (WA, LC, January 2, 1871, p. 70).

⁶¹ Western Australia was, unfortunately, excluded "owing to the distance" and time constraints (Fitzgerald, 1881, p. 1).

⁶² William Knight resigned in October 1872 and Edward Courthope was appointed as Auditor General. Knight's retirement was noted in all three local newspapers with well-wishes. The fact that he would become one of the first people to qualify for an annual pension (of £300) under the relatively new 35 Vic., No. 7—*Superannuation Act 1871* (WA) was considered to be well-deserved ((1872, October 5). Topics of the Week. *The Herald*, p. 3; (1872, October 9). Mr. Knight's Resignation. *The Inquirer and Commercial News*, p. 3; (1872, October 11). Omnium. *The Perth Gazette and West Australian Times*, p. 3).

reference to whether the expenditure was legally authorised. In the event of more money being required than was authorised, *I simply obeyed the Governor's warrants....*If money was paid for any excess of expenditure, under any vote, I did not draw the attention of the Governor to the fact. It was no part of my duty to do so....*So far as I am aware there is no power in the regulations to restrain the Governor from spending as much money as he likes.* ((1880, August 25). The Select Committee's Report upon the Audit Bill. *The Inquirer and Commercial News*, p. 3) [emphasis added]

The Excess Expenditure Bill for 1870 (equating to more than fifteen per cent of the approved Estimate) was reluctantly passed in August 1871, "in the full hope that such a Bill would never again be brought before the House" (WA, LC, July 14, 1871, pp. 12-13). Lee Steere again expressed his belief that "the disbursement of the public money should be entirely under the control of the representatives of that public, and that not a farthing should be expended by the Executive without their sanction" (WA, LC, July 14, 1871, p. 13). Nonetheless, the same situation arose during the following year and it became obvious that gaining a representative government system had not made any difference. In August 1872, Lee Steere protested, as he had every year since becoming a member of the Legislative Council, "against the expenditure of public money in excess of the grant voted by the Legislature. He thought that when we obtained the present form of Government there would have been an end to all that" (WA, LC, August 6, 1872, p. 30). To address this problem, and as the proposal made in late 1870 to control excess expenditure by having the Auditor General made "an official responsible to the House" had failed, Lee Steere moved that excess expenditure bills should be first referred to a Select Committee for examination (as in the Imperial House of Commons) instead of being considered in a Committee of the whole House (WA, LC, August 6, 1872, p. 30). The motion was passed. Western Australia had obtained its first Public Accounts Committee (PAC) (WA, LC, August 8, 1872, p. 35).

The Select Committee was not an effective mechanism for reducing excess expenditure as it did not query the constitutional principle, instead investigating only if the funds had been spent for the good of the public. As there was no hint of corruption or mismanagement in that sense, it reported its satisfaction with the reasonableness of the unauthorised expenditure and the Excess Bill for 1872 was then affirmed without further discussion in a committee of the whole House ((1872,

August 14). Confirmation of Expenditure. *The Inquirer and Commercial News*. p. 3). A similar Select Committee was appointed in July 1873 to consider and report "upon the necessity for reducing Governmental expenditure", but its report found little that could be reduced without affecting the efficiency of the public services (WA, LC, July 4, 1873, pp. 17-18).

The growing public demand for responsible government prompted Governor Weld to send a confidential despatch seeking advice from the Secretary of State in August 1873 (Weld to Secretary of State, 11 August 1873, Governor's confidential despatches to the Secretary of State, SROWA, Cons 390 v.47). The response was vague, so Weld complied with a request from the Legislative Council in 1874 asking him to introduce a Constitution Bill supporting responsible government (de Garis, 1981a). That draft bill, however, proposed introducing an upper house composed entirely of nominated (not elected) members—a highly unsatisfactory solution for the elected representatives. To stall debate on the bill, Lee Steere recommended postponing further discussion "until the country had been given an opportunity of expressing its opinion. This was negatived by the House, but acted upon by the Governor, who dissolved the Council" (Battye, 1924, p. 294). The subsequent election results demonstrated the public was undeniably and strongly in favour of a fully elected responsible government (Battye, 1924).

In the meantime, Governor Weld had finally received decisive advice from the Colonial Office instructing him to leave the matter of a new constitution to his successor, Robinson, who was instructed "to head the movement off" (de Garis, 1981a, p. 335). In fact, Robinson's entire "first term as Governor was marked...by his moves to restrain the political aspirations of the people" (Constitutional Centre of Western Australia, 2002, p. 10).⁶³ Soon after his arrival in early 1875, Governor Robinson read the Legislative Council a despatch from the Secretary of State stating the Imperial government was not prepared to support the call for responsible government (Battye, 1924). The Legislative Council response expressed dissatisfaction with the delay to being granted responsible government, and was approved fifteen votes to three—an unusually large consensus which included six

⁶³ William Robinson was appointed as Governor for three terms: January 1875 to September 1877; April 1880 to February 1883; October 1890 to March 1895.

official and nominee members (WA, LC, January 25, 1875, p. 48).⁶⁴ One elected representative, Walter Padbury, specifically explained that he supported responsible government because the elected representatives "would then have some little control over the expenditure of public money, and those who spent it would be...responsible to that House" (WA, LC, January 25, 1875, p. 46).

With the possibility of obtaining a fully responsible government now effectively blocked, elected representatives instead focussed on close scrutiny of Executive expenditure. Parliamentary papers reveal that elected members throughout this period frequently reminded the government that their sanction was required for all expenditure (for example, see Committee debates on expenditure bills, estimates and various construction works in August 1876 and July 1877). Further examples of the pressure against the government are shown in August 1877, when elected members queried and effectively reduced expenditure on the majority of items in the estimates debate. A Select Committee formed to inquire into excess expenditure for 1876 found that the estimates had been too low in some cases but also that four departments were not operating economically (Medical; Gaols; Poor House; Rottneest) (WA, LC, August 2, 1877, p. 98).⁶⁵

Governor Robinson's term ended in September 1877 and, in November, Governor Harry Ord was sworn in. Ord's opening speech to the Legislative Council (in May 1878) included his belief that "the finances of a Country are undoubtedly the most important matter with which its Administration has to deal" (WA, LC, May 29, 1878, p. 1).

The Western Australian Times had been regularly highlighting its concerns regarding excess expenditure and explained the role of the PAC in Britain, in an editorial headed "Unauthorised Expenditure".⁶⁶ The editorial referenced Gladstone's description of the PAC as providing "completeness to our system of Parliamentary control over the public moneys, and as affording to the House of Commons, through

⁶⁴ The three elected members voting against were George Randell (Perth), Edward Hamersley (Toodyay) and Maitland Brown (Geraldton).

⁶⁵ The *Excess Bill* passed in the August 1877 session of Parliament (for excess expenditure in 1876: 41 Vic., No. 5—*Appropriation 1877* (WA)) amounted to £18,755, 11.8% of the approved estimate for that year (39 Vic., No. 18—*Appropriation 1875* (WA)).

⁶⁶ This had commenced in April 1861 as a Select Committee and made a permanent fixture in 1862.

its investigations, the best security for the due, speedy, and effectual rendering and examining of the public accounts" ((1877, August 14). Unauthorised Expenditure. *The Western Australian Times*, p. 2). In contrast, the Select Committee appointed as a type of PAC in Western Australia in August 1872 had not queried the principle of excess expenditure and had only been concerned that the funds had been spent for the good of the public (as noted earlier). It had become a customary practice, nevertheless, to refer the annual excess bill to a Select Committee for consideration. This practice was brought to an abrupt halt in 1878 when an elected member, Carey, cited Standing Orders and Imperial precedents indicating that matters connected with finance could only be discussed in a Committee of the whole House (WA, LC, June 12, 1878, p. 38). Given the evidence, the Speaker (Luke Leake) ruled that debate on the Excess Bill, which equated to almost twelve per cent above the approved estimate for 1877, must be held in Committee of the whole House (WA, LC, June 14, 1878, pp. 42-43). The minutes show there was close attention given to most items. For example:

Item: Harbor Master, £408 10s. 2d:

MR. SHENTON complained of the overdraft under this head....A sum of £500 was voted for this purpose...which ought to have been ample to cover the expenditure under this head. Instead of that they were confronted with an overdraft of over £400.

Item: Police Department, £1,596 9s. 11d:

MR. PARKER...was astonished to see an over-expenditure of sixteen hundred pounds, which he understood to consist of items..."insufficiently provided for." He thought ample provision had been made for these items in the Estimates for 1877, and he would like to know why there should be all this excess.

Item: Rottnest Native Penal Establishment, £574 4s. 1d.:

MR. S. H. PARKER considered it very strange there should be such an overdraft in connection with this establishment, especially bearing in mind the very liberal allowance made on the Estimates for the past year as compared with the previous year.

Item: Miscellaneous, £8071 13s. 4d.:

MR. CAREY believed there was a resolution of the House limiting the overdrafts in any, one year to £5,000⁶⁷, yet in the face of that he found that during the past seven years the aggregate amount of excess bills passed by the House was over £100,000. It appeared to

⁶⁷ It had actually been for £3,000, as noted earlier.

him that discussion upon these items of overdraft was perfectly useless. Whatever the Government thought proper to spend, they did so, and then asked the House to confirm the expenditure, which the House invariably did. (WA, LC, June 19, 1878, pp. 69-72)

The Western Australian Times took the opportunity to publish its condemnation of the ongoing practice of presenting annual excess bills, similar to an article published in August 1877 ((1878, June 18). Laxity of Control. *The Western Australian Times*, p. 2).

The Commission appointed by Governor Ord to investigate those government departments found in the previous year to have been operating inefficiently reported that "the heads of those departments are not liable to any charge of administering them without regard to economy" ((1878, August 6). The Commission Appointed to Enquire into Departmental Administration. *The Western Australian Times*, p. 2). However, the Commission did recommend adopting a suggestion from the Auditor General that an Examiner of Public Accounts be appointed to make surprise periodical visits to regional outposts to examine the various accounts of the Sub-Collectors of Revenue. Governor Ord agreed with the suggestion but, rather acidly, noted this task was something the Auditor General should already be doing:

The Auditor General is clearly unaware that this is one of the paramount duties of his office....It will be necessary to investigate the arrangements of the Audit office and to decide how this duty shall be performed in the future ((1878, August 23). Report of the Commission on Departmental Administration (concluded). *The Western Australian Times*, p. 4).

It is not clear if Governor Ord is implying a threat to the operational resources of the office. There certainly appeared to be no intention of funding a new appointment. *The Western Australian Times* also agreed with the Auditor General's idea and suggested the role be made independent of official control, "to guard against any reckless extravagance or direct malfeasance" ((1878, September 6). The Guardianship of the Public Purse. *The Western Australian Times*, p. 2). Nevertheless, the editor thought appointing such an Examiner was only secondary to the really important issue of bringing public expenditure under Parliamentary control. That outcome could only be achieved by adopting responsible government, especially as

the Legislative Council was "supinely content to abnegate its functions of control in regard to public expenditure" and the general public remained "too ready to accept with good natured alacrity official declarations that such and such outlay has been inevitable" ((1878, September 6). The Guardianship of the Public Purse. *The Western Australian Times*, p. 2).

In late July 1878 another attempt was made at introducing a Constitution Bill to establish responsible government in Western Australia. It was defeated on a procedural technicality (to the immense frustration of its proponent, Stephen. H. Parker) and the Parliamentary session was prorogued soon after, effectively ending the attempt (WA, LC, July 12, 1878, p. 213; see also Macphail (2008)). At the opening of the next Parliamentary session, in July 1879, Governor Ord forestalled any further moves to reintroduce responsible government by advising the Legislative Council he had been informed by the Secretary of State that the cost to Western Australia would be prohibitive (Macphail, 2008).

7.7 CHAPTER SUMMARY

Obtaining representative government in 1870 failed to provide the expected Legislative control of Executive expenditure, which continued throughout the decade. Several attempts were made to increase Legislative power but failed, notably, a short-lived attempt to have the Auditor General made an independent officer of Parliament, and implementing a PAC which did not address the constitutional principle of Executive expenditure without Legislative authorization. Colonial audit remained under the authority of the Colonial Secretary. Increasing pressure from colonists and the elected representatives in the Legislative Council for control over Executive government expenditure is demonstrated to be connected with demands for further constitutional change, yet attempts to obtain a responsible government were unsuccessful.

In 1880, the ongoing Executive practice of presenting annual excess bills for retrospective Legislative approval resulted in a much stronger, coordinated attempt to obtain an independent Auditor General via the *Audit Bill 1880*. The next chapter

closely examines the Parliamentary struggle over this Bill and its constitutional significance to Western Australia.

CHAPTER 8

THE PUSH FOR INDEPENDENT AUDIT (1879-1881)

8.1 INTRODUCTION

This chapter examines the introduction of the *Audit Bill 1880* which provided for the appointment of the Auditor General as an independent officer of the Parliament. It demonstrates that the Bill was intended to provide a real restriction on the ongoing Executive practice of presenting annual excess bills for retrospective Legislative approval. The passage of the *Audit Bill 1880* generated intense political and public debate because it was understood as a diminution of Executive power and of major constitutional significance to Western Australia. It provides an outstanding example of how public sector audit "is an aspect of government which touches closely upon the mechanics of central power"; indeed, how public sector audit sits at the very heart of government accountability and the control of power (Normanton, 1966, p. xviii).

However, this issue is generally absent from existing studies on the politics of the period (late 1870s to early 1880s) or even in discussions on the two-decade era of representative government (1870-1890). No direct references were made by Phillips (1985) or Macphail (2008) in their otherwise detailed analyses. Battye (1924) described the period 1875-1883 as "not particularly prolific" in terms of legislation, and "the only matters of importance...were a reform in the method of issuing land-titles, and various revisions of the land regulations" (Battye, 1924, pp. 313-314). The period was described by de Garis (1981b, p. 333) as "calmer political waters": even though the "governor and Council were frequently at loggerheads...the issues were of less general interest and seldom evoked sustained public involvement". That conflict is here explored in detail and shown to be of great general interest.

8.2 A PARLIAMENTARY "EMERGENCY" (1879)

Governor Ord's announcement of the unreasonable cost to Western Australia of adopting responsible government, in his opening address to Parliament in July 1879, may well have also been intended as a defense against his subsequent news of the colony's poor financial situation. Ord admitted his investigation into the previous

year's Estimates had made "erroneous" assumptions about the existence of surplus revenue, compounded by the fact that the short annual Parliamentary session meant he had been unable to obtain "the opinion of the Legislature upon, or their assent to any measure, no matter how serious may be the interest at stake" (WA, LC, July 29, 1879, pp. 5-8). Ord concluded his speech with an assurance that the current statement of revenue and expenditure for 1878 had been prepared "with a minuteness not hitherto attempted" and would "assist you in coming to a conclusion as to the measures to be adopted for meeting the emergency, and for preventing a recurrence of it" (WA, LC, July 29, 1879, p. 5).

No real complaints were made by the Legislative Council about the Executive's "erroneous" financial management which had created the "emergency". Members readily agreed the earlier financial statements had not "wilfully misrepresented" the situation (Shenton), that Ord had been acting in the best interests of the colony (S. H. Parker), and that perhaps the blame should be placed on "the Auditor General, or someone" (Carey) (WA, LC, July 30, 1879, pp. 12, 14, 17). It was *The Western Australian Times* which blasted the "monstrous" news of "a false statement of accounts" and severely criticised the "indifferent" response from "the chosen guardians of the public purse", revealing that the Legislature was "beyond the control of the public whom they serve" and asking "where is the controlling power of the Auditor General over the public accounts" (Weazel. (1879, August 2). The Latest Development of Irresponsible Government. *The Western Australian Times*, p. 2).

Two weeks later, the Editor of the same newspaper republished the article condemning the ongoing practice of presenting annual excess bills (printed in August 1877 and in June 1878—referenced above) and called again for the Auditor General to be made responsible solely to the Parliament and thus independent of the Executive, in order to both protect the public purse and provide adequate information on expenditure. The Auditor General's current situation was conflicted, as he was "required to render to the Colonial Secretary absolute official obedience" and was consequently a "slave of the Government", but he was also required to report annually to Parliament and, as a result,

must also—if he does his duty—be the accuser of the Government in the event of any negligence, extravagance, or direct malfeasance. This condition of things can hardly be said to be compatible with an honest and independent audit of public accounts. ((1879, August 12). The Public Accounts. *The Western Australian Times*, p. 2)

Although this call for an independent auditor was not taken up in the 1879 session, elected members did begin to respond more critically to the Executive's financial proposals. In the Legislative Council throughout August, September and October, members closely questioned items presented to them in the Estimates Bill, Over-Expenditure Bill and Appropriation Bill, called for detailed financial information to be provided and made pointed statements about their right to do so and the past failures of the Executive government to restrain expenditure within the votes (see, for example, WA LC minutes for 4, 11, 27, 28 August; 3 September; and 7 October 1879).

It was revealed in this session that the Imperial Parliament had confirmed that financial matters could be referred to a Select Committee for consideration, contrary to the Speaker's ruling the previous year, and this process was subsequently followed (WA, LC, August 4, 1879, p. 25). Nevertheless, the appointed Committee again focussed on investigating the nature of each item of over-expenditure rather than the principle of expenditure without authorisation. It concluded with a cautious statement that "due regard as to economy was, on the whole, observed by the Government in the expenditure under consideration" (WA, LC, September 26, 1879, p. 215). This statement was to be quoted by the Executive on several future occasions as proof that its excess expenditure had been acceptable to the Legislative Council.

Given that Governor Ord's opening address had called the colony's financial situation an "emergency", members must have been astonished to hear in his speech upon prorogation that the length of the session had "not arisen from there being any special matter of magnitude or importance" but, rather, from the Council's decision to make an independent investigation "into the circumstances which led to so large an excess of expenditure during the previous year" (the Select Committee referred to above) (WA, LC, October 8, 1879, p. 280). That investigation, said Ord, had been "a most useful measure", for "it is no doubt satisfactory to the public to learn how completely

Your Honorable Body exonerate the Government from any extravagance in the management of the finances you entrust to its charge" (WA, LC, October 8, 1879, p. 280).

Little public comment was made apart from general relief that the long Parliamentary session had finally ended. The following year, 1880, would prove different.

8.3 ELECTIONS AND EXPECTATIONS (JANUARY-JULY 1880)

Elections to the Legislative Council were held in early 1880. The key issue expressed in many of the candidates' speeches was the necessity of providing Parliament with direct control over public expenditure in order to prevent future excess expenditure. As it was now unlikely that Western Australia would obtain responsible government in the near future, the next best option was the introduction of an Audit Act with an independent Auditor General. Candidates Stephen H. Parker, Edward Hooley, Septimus Burt, Edward Hamersley and Lee Steere each promoted an independent Auditor General as part of their policy platforms and they were enthusiastically supported by *The West Australian* (see, for example: (1880, February 10). Candidates on the Platform. *The West Australian*, p. 2).⁶⁸ One of Lee Steere's speeches is here quoted in detail as it illustrates the principles of independent audit found in modern legislation:

I will now remark upon...the necessity of some legislative measure to check the present uncontrolled and illegal expenditure of the Government. I say illegal advisedly, because the second clause of the Appropriation Act specifies that the Colonial Treasurer shall issue such sums of money not exceeding in the whole the amount voted by the Council, as the Governor shall direct; and yet we find the Executive systematically evading this provision....*The only remedy that can be instituted...for putting it beyond the power of the Governor to expend money not voted by the Legislature, is to enact a bill for the auditing of the public accounts, such as exists in all the other colonies. This Act should make the Auditor General responsible to the Council, and irremovable from his office except by an address from the Council, and no money should be issued by*

⁶⁸ Thomas Cockburn-Campbell, elected representative and Chairman of Committees on the Legislative Council since 1875, was a frequent contributor to *The Western Australian Times*. In 1879 he became Managing Editor of the newspaper, which was renamed *The West Australian*, and also continued in his Parliamentary role (Battye, 1969).

warrant of the Governor unless such warrant was countersigned by the Auditor General, with a certificate that the money about to be issued...had been sanctioned by the Legislature. (A Correspondent. (1880, February 6). Mr. Steere at Bunbury. *The West Australian*, p. 2) [emphasis added in italics]

Other local newspapers were not as supportive. *The Herald* argued it was impracticable to have an Auditor General "responsible to the Legislative Council for any unauthorised expenditure on the part of the Government" as the government had to be able to pay whatever was necessary for the public service, and appealing to the Secretary of State (a tactic suggested by Lee Steere as a last resort for the Legislative Council) was pointless as the money would be spent before a reply could be received ((1880, February 14). *The Herald*, pp. 2-3).

The political shift reflected in these pre-election speeches, away from a focus on responsible government and towards implementing an independent audit, did not appear to be noticed by Governor Ord. In a confidential despatch to the Secretary of State, Ord merely expressed relief that the election outcome meant that calls for responsible government were not likely to arise in the forthcoming Parliamentary session. Yet in local newspapers it was not the introduction of responsible government but the deficiencies and benefits of an independent Auditor General that were discussed throughout the first months of 1880. Governor Ord only briefly acknowledged the "unfortunate" discovery of the Executive's poor financial management as a motivating factor and blamed the public agitation on the press, which he believed "was almost entirely in the hands" of the "criminal class":

11....although it was fully recognized by the Legislature that they were as much responsible for the result as the Government...the press suppressed these facts, and openly proclaimed that all that had happened was due to the reckless extravagance, miserable incompetency, and utter disregard of the wishes of the people, shown by the administration; and instigated by the Governor. (Ord to Secretary of State, 21 February 1880, Governor's confidential despatches to Secretary of State, SROWA, Cons 390)

The Herald argued that an independent Auditor General would do little except provide clearer accounts. Making that officer responsible to the Legislative Council

was "incompatible with the first principle of the constitution" (that is, representative government), as the Auditor General "could not be independent of the Governor":

The Governor would sign what orders he thought fit and the Treasurer would pay them, whether the Auditor General certified to their propriety or not. What could the Legislative Council do? They could not turn out the Governor and the Treasurer as they would turn out a ministry, for these officers are not responsible to them—and they would have to do as they have always done—vote the money. ((1880, February 21). *The Herald*, pp. 2-3)

The West Australian agreed that audit legislation would not prevent excess expenditure but that the provision of clearer accounts alone would be an important improvement. Better financial records would ensure "a protection to the Government and a satisfaction to the House; and that is all that an Audit Act can prove anywhere", under either responsible or representative government ((1880, March 12) Occasional Notes. *The West Australian*, p. 2).

Governor Ord departed in April 1880 and Robinson returned for a second term as governor. *The Herald* anticipated a "stormy" session for the new Parliament ((1880, July 17). *The Herald*, p. 3). In *The Argus*, a Victorian newspaper, it was predicted that "the bill of the session will be an Audit Act, brought in probably by some elected member" in order to "fetter the Government in their expenditure" (Our Own Correspondent. (1880, July 17). Western Australia. *The Argus*, p. 5). The Western Australian writer of this article (quite possibly Cockburn-Campbell or Lee Steere) also forecast that the Audit bill would be opposed because, under the colony's representative government constitution, Executive authority was derived directly from the Crown. Limiting Executive powers of expenditure via an Audit Act would thus be "a direct slap in the face" to the Colonial Office (Our Own Correspondent. (1880, July 17). Western Australia. *The Argus*, p. 5). Nevertheless, the author was optimistic that the Secretary of State would "back up the country in a just demand, and allow a measure which will give people a control over expenditure which is real, instead of one which is only nominal", especially given the manifest failure of representative government to provide that control (Our Own Correspondent. (1880, July 17). Western Australia. *The Argus*, p. 5). This same correspondent provided a similar report, dated 25 July 1880, to another Victorian newspaper, noting that

elected members were "determined to put a curb upon Government extravagance by the passing of an Audit Act" and would be "well marshalled and well combined, more so than on any former occasion" ((1880, August 14). Western Australian Affairs. *The Australasian Sketcher with Pen and Pencil* (Melbourne), p. 206).

It is evident that incoming Governor Robinson had paid attention to the newspaper debates. In his opening address to the Parliament on 19 July 1880 he advised that the colony's financial situation was, once again, "considerably worse than was anticipated" (WA, LC, July 19, 1880, p. 2). However, he also admitted that the practice of authorising expenditure beyond the Estimates was "to some extent to blame for our difficulties; and I would strongly urge on you to sanction...no items of Expenditure but such as are included in the Estimates. The Government...should adhere strictly to the Appropriation Act" (WA, LC, July 19, 1880, p. 2). Robinson then noted he would be proposing staffing increases in the Audit Department to improve future audits, as he had found the work to be in arrears—for which the Auditor General did "not appear to be to blame" (WA, LC, July 19, 1880, p. 5). In the formal address in reply to the Governor's speech, elected member Harry Venn noted that on previous occasions they had also been told they could rely on the financial figures provided, only to find subsequent "disheartening" discrepancies, and implied that the Audit Office was the source of past problems:

Reference to the "strength" of the staff of that department, in the face of the recent disclosures made with respect to the public accounts was suggestive of a very grim joke...the House would readily assent to the proposed steps for increasing the "promptitude and the efficiency"...of the department. (WA, LC, July 19, 1880, p. 9)

The formal opening of Parliament over, elected members moved quickly to bring pressure on the Executive. On 22 July, Lee Steere obtained leave to introduce the expected Audit Bill "to regulate the receipt, custody, and issue of the public moneys, and to provide for the audit of the public accounts", based upon 22 Vic., No. 6—*The Audit Act 1858* (Tas.) (WA, LC, July 22, 1880, p. 20).⁶⁹

⁶⁹ The passage of this legislation in Tasmania had encountered considerable opposition, based both on the operating costs of the Audit Office and on provisions that gave aspects of judicial authority to the Auditor General (resolved by an amendment allowing the Auditor General to refer such matters to the Supreme Court) (Di Francesco, 1999, p. 50).

8.4 THE AUDIT BILL 1880: SECOND READING (2 AUGUST 1880)

Lee Steere opened the second reading debate on the *Audit Bill 1880* on 2 August by outlining its scope and provisions, the usual practice when considering new legislation. The intensity of what followed was certainly not usual. The debate lasted for almost four hours, the House finally adjourning at 11 p.m., and *Hansard* records for this one item of discussion take up almost 25 pages (WA, LC, July 22, 1880, pp. 64-89). These facts alone are evidence that members understood the *Audit Bill* had implications of critical importance to the constitution of Western Australia and that the outcome would be key to the balance of political power. Most of the ensuing debate was around the first two clauses of the *Audit Bill*, reproduced here in full, which provided the Auditor General with independence:

1. The Auditor General for the time being shall hold his office during good behaviour, and shall not be removed therefrom unless upon the address of the Legislative Council.

2. At any time when the Legislative Council is not sitting it shall be lawful for the Governor, with the advice of the Executive Council, to suspend the Auditor from his office for inability or misbehavior, and to appoint some fit person to perform the duties of such Auditor during his suspension; and in any such case the Governor shall, within seven days after the commencement of the next session of the Legislative Council, cause a full statement of the cause of such suspension to be laid before the Legislative Council; and if an address at any time during that session is presented to the Governor by the Legislative Council praying for the restoration of such Auditor to his office, such Auditor shall be restored accordingly; but if no such address is so presented, it shall be lawful for the Governor, with the advice aforesaid, to confirm such suspension, and to declare the office of such Auditor to be, and the same shall thereupon become and be, vacant. (WA, LC, July 22, 1880, p. 64)

Lee Steere clarified that the first clause did not remove or interfere with the governor's right to make appointments to the public administration (known as the Royal prerogative). Neither did it provide any power to the Legislature to appoint or dismiss the Auditor General. It did provide for the Auditor General to retain office during good behaviour and not to be removed from that role unless requested by the Legislative Council.

The provisions of the second clause provided "a check upon any arbitrary conduct" of the governor towards the Auditor General (WA, LC, July 22, 1880, p. 64). Lee Steere claimed such provisions were regarded as "very proper...in connection with the expenditure of public funds by any public bodies...calculated to assist rather than to hamper or embarrass those entrusted with such expenditure" (WA, LC, July 22, 1880, p. 66). Lee Steere explained that similar provisions also applied to the British Prime Minister, under the *Exchequer and Audit Departments Act 1866*, to bank directors and to other major authorities. In fact, the "same provision was introduced into every other Audit Act throughout the world, and the principle was also adopted in the appointment of Judges", the object being "to ensure on the part of those functionaries a fearless discharge of their duties, and to free them from any dread of arbitrary dismissal from office" (WA, LC, July 22, 1880, p. 65). In conclusion, Lee Steere argued the Audit Bill was not "unconstitutional" because section 15 of the *Australian Constitutions Act 1850* (Imp.) "expressly empowered us to do what the present bill aimed at": that is, for appropriations to be regulated and audited as directed by laws enacted by local legislatures (WA, LC, July 22, 1880, p. 68).

The arguments made against the first clause were primarily based on the principle that making the Auditor General responsible to the Legislative Council—"an irresponsible body" in its current status—did, in fact, cast doubt on the governor's power to make appointments and therefore did interfere with the governor's Royal prerogative (WA, LC, July 22, 1880, p. 79). Nominee members George Randell and Edward Stone believed that the "very essence and principle" of the Bill "violated" constitutional principles (WA, LC, July 22, 1880, pp. 70, 80).

The *Audit Bill's* defenders maintained there was no desire for the legislature to control the Auditor General's appointment, only for a protection against Executive pressure and arbitrary dismissal. The legislature would be unlikely to support an Auditor General who had been suspended by the governor and, ultimately, if these clauses were truly unconstitutional, the *Audit Bill* would be rejected by the Imperial government. The sole object was "to ensure for the people of the colony, through their representatives in that House, that control over the public expenditure which they ought to possess, and which the Constitution Act contemplated they should possess" (WA, LC, July 22, 1880, p. 68). By providing that control, Lee Steere

suggested the *Audit Bill* would also provide a means of warding off the adoption of responsible government (now generally considered to be undesirable), but at least four members explicitly disagreed on this point. For example, both the Commissioner of Crown Lands and the Colonial Secretary argued the *Audit Bill* was fully intended to provide the "thin end of the wedge" for introducing responsible government, and nominee member George Randell described it as "a side wind to attain that end" (WA, LC, July 22, 1880, pp. 69, 71, 82).

The third clause of the *Audit Bill* provided for the appointment of a Deputy Auditor, and the fourth prohibited the Auditor General from membership of the Executive and/or Legislative Councils while holding office. Neither clause attracted much attention in the Parliamentary debate (although later the fourth clause was identified by Governor Robinson as contradicting his Royal prerogative to appoint Council members).

The fifth and sixth clauses, and Schedule A, regulated the procedure for issuing public money. In short, the Treasurer would determine the sums due and the Auditor General would check to ensure the expenditure was within the approved appropriations (WA, LC, July 22, 1880, p. 65). If satisfied, the Auditor General would prepare a warrant authorizing the issue and submit both the warrant and the Treasurer's statement to the governor for final approval. Only then could the Treasurer issue the money. The supporting regulations also included provisions for contingency expenditure over the approved estimates. In such cases, the authority of the Governor in Council to make the payment was to be immediately intimated to the Auditor General, who would report to the Treasurer that it was lawful for the expenditure to take place. "It would thus be seen that, although the votes of the Legislature might, in certain cases, be exceeded, still every possible check was placed upon such excess of expenditure" (WA, LC, July 22, 1880, p. 66).

Members both for and against the *Audit Bill* agreed these provisions would not make any change to the governor's supreme authority in financial administration, nor to the ability to incur excess expenditure in case of emergency. The differences were that the House would be provided with the full details and the audit would take place prior to expenditure being incurred, rather than afterwards (alleged to be a principal

reason why excess expenditure had continued in other colonies after their adoption of audit legislation) (WA, LC, July 22, 1880, p. 78). Members opposed to the *Audit Bill* identified these provisions as unnecessary, arguing the existing Treasury regulations already provided a sufficient check upon excess expenditure and that past instances had been proven by the recent Select Committee to have been of actual benefit to the colony. George Leake, Acting Attorney General, pointed out it "was not contended, it was not even hinted, that one single penny of the public funds had ever been misapplied or misappropriated" (WA, LC, July 22, 1880, p. 76). Thomas Cockburn-Campbell contended there was no doubt that implementing an Audit Act would, in fact, act as a restraint upon Executive expenditure:

Why, otherwise, was it that they found such an opposition to the measure on the part of the Government—and they were quite well aware that the opposition to the measure was most bitter—why, indeed, except that the Government themselves believed that it would place a curb upon unauthorised expenditure? (WA, LC, July 22, 1880, p. 78)

The Commissioner of Crown Lands suggested Lee Steere's real motive in presenting this "new sensation" was to improve his political reputation; further, that the measures were superfluous because the governor had already stated his intention to maintain strict economy and improve the current system by providing additional Audit Office staff (WA, LC, July 22, 1880, pp. 69-71). Elected representatives responded that the *Audit Bill* was not sensational but practical, as it would facilitate accurate account keeping and provide the Legislative Council with the exact details of expenditure. The existing regulations had not, for example, prevented departments from including items under "miscellaneous" instead of under their correct heads of service, so they either did not provide an adequate check or the Executive was not adhering to them. (WA, LC, July 22, 1880, p. 86). Elected members Charles Crowther and Thomas Carey noted that the government had previously promised to restrain expenditure, yet excess bills had continued and even increased over the past seven years.

The Colonial Secretary moved to have the *Audit Bill* "read a second time that day six months", effectively a proposal to have it thrown out, but the motion was easily defeated (ten votes to seven) (WA, LC, July 22, 1880, pp. 82-83). The House agreed

instead to refer it to a Select Committee consisting of five elected members (including Lee Steere) and two nominee members.

8.5 THE AUDIT BILL 1880: PUBLIC REACTION

Articles published in newspapers both within and outside of Western Australia provide evidence of widespread interest in the *Audit Bill 1880* and the constitutional questions it provoked over control of public money. Transcripts of the Parliamentary debate were published in the three major local newspapers, as was usual, along with a copious amount of editorial comment ((1880, August 4). Legislative Council. Monday August 2. *The Inquirer and Commercial News*, p. 3; (1880, August 6). Legislative Council. Monday, August 2. *The West Australian*, pp. 2-3; (1880, August 7). Legislative Council, Monday, August 2nd, 1880. Audit Bill. *The Herald*, p. 2S).

The Inquirer supported the *Audit Bill* and hinted that the Auditor General had "incurred the displeasure of the late Governor and the Colonial Secretary, through his endeavours to resist interference with the independent exercise of his functions"—although also admitting this allegation could not be verified ((1880, August 4). *The Inquirer and Commercial News*, p. 2). *The West Australian* also supported placing the Auditor General "in a position which will enable him to do his duty without fear of falling under the displeasure of his superiors for so doing" ((1880, August 6). The Debate on the Audit Act. *The West Australian*, p. 2). A regional newspaper noted that three regional representatives had been absent from the debate and, had they all been present, "we fancy that the Government would have sustained a greater defeat than they did" ((1880, August 13). Local Districts' and General Topics. *Eastern Districts Chronicle* (York), p. 2). Such implied support from regional electorates is particularly interesting as they were usually quite politically conservative.

In contrast, *The Herald* argued the *Audit Bill* was unconstitutional because "making the keeper of the public accounts independent of the responsible administrator of affairs, and constituting him the servant of an irresponsible popular assembly" was an absurd and audacious notion ((1880, August 7). *The Herald*, pp. 2-3). It also described the actions of the elected members, "supported by the *West Australian*", as "a silly attempt" (An Idle Man. (1880, August 7). Occasional Paragraphs. *The*

Herald, p. 3). A special supplement of *The Herald* predicted the Select Committee considering the *Audit Bill* would substitute clauses "for the two first sections which will be equally effectual in securing the object of the bill without incurring the danger of its being opposed as unconstitutional" ((1880, August 9). Herald Office. *The Herald*, p. 1S). Yet a few days later *The Herald* ran an editorial stating that, although they did not expect the *Audit Bill* to succeed, the "time seems certainly to have come when it should be decided beyond doubt whether the Legislative Council has or has not any real power, as against the fiat of the Governor" and hoped the matter would be a means "of settling the powers of the people under the present constitution one way or the other" ((1880, August 14). *The Herald*, p. 2).

A letter to the editor of *The West Australian* criticised the attitude taken by *The Herald* in discussing the *Audit Bill* provisions, accusing its editors of "bitterness" because achieving control over public expenditure would remove their "stock argument" for the introduction of responsible government (Anon. (1880, August 10). The "Herald" and the Audit Bill. *The West Australian*, p. 3). A letter to *The Inquirer* described the Parliamentary division on the *Audit Bill* as a "burlesque" that "afforded considerable amusement to the Gallery" (The Gallery. (1880, August 11). Official Members in the House. *The Inquirer and Commercial News*, p. 2S). In that same edition, another letter criticised the government's proposal to increase staffing levels in the Audit Office as unnecessary expense (M. Logue (1880, August 11). Departmental Expenditure. *The Inquirer and Commercial News*, p. 2S).⁷⁰

Updates on the topic appeared in at least five South Australian, Victorian and New South Wales newspapers, with the comment: "It is believed that the Audit Act recently passed by the Legislature will be vetoed by the Governor" ((1880, August 16). Western Australia. *The South Australian Advertiser* (Adelaide), p. 5; (1880, August 17). Western Australia. *The Age* (Melbourne), p. 3; (1880, August 18). Miscellaneous Items. *Newcastle Morning Herald and Miners' Advocate* (NSW), p. 2; (1880, August 21). *Leader* (Melbourne), p. 20; (1880, August 21). *South Australian Chronicle and Weekly Mail* (Adelaide), p. 6). A more detailed article describing the political situation had been published earlier in South Australia, explaining:

⁷⁰ The writer of this letter, Major Logue, had previously been the elected representative for the regional town of Geraldton (Battye, 1912).

The constitution [in Western Australia] is partially representative, but the Government is far from responsible in form or act. Taxation is no doubt practically controlled by the Legislature, but...this is seriously emasculated by the want of restraint on expenditure. Under the circumstances it is not surprising that one of the first Bills proposed by elected members will be to provide an Audit Act. It is notorious that mismanagement and misappropriation of funds...have been going on....On the other hand, it is argued that an Audit Act would interfere with Ministers, who are in reality the servants of the Imperial Government. That such an argument should have any weight is reason enough to stimulate the demand for real responsible government....It is surely not too much to encourage a hope that the Home Government...will throw no obstacles in the way of an enactment which...will concede to the people an actual control over expenditure. ((1880, August 14). *The Advertiser*, Saturday, August 14, 1880. *The South Australian Advertiser* (Adelaide), p. 4)

8.6 THE AUDIT BILL 1880: REPORT OF THE SELECT COMMITTEE (20 AUGUST 1880)

The Report of the Select Committee appointed to consider the provisions of the *Audit Bill* was read and received in the Legislative Council on 20 August 1880 (Report WAPP 1880 no. A6). The Report included, as evidence, a statement from each of the four persons examined by the Committee and which reveal some of the political struggle for power over financial control.⁷¹ These statements were not read to the Legislative Council but were included in the printed Report and published in full in *The Inquirer* with the comment that they would "be perused by our readers with considerable interest" ((1880, August 25). The Select Committee's Report upon the Audit Bill. *The Inquirer and Commercial News*, p. 3). Both the previous and current Auditor General explicitly stated that independence was essential for their role but did not exist. They both gave examples of having been pressured by the Colonial Secretary to make alterations in their accounts. Knight was particularly blunt, stating:

I have always expressed an opinion, both publicly and privately, that the Auditor General should be responsible to the Council. I once resisted pressure being brought to bear upon me by the Colonial Secretary to alter my books in a manner which I did not think was right, but I resisted at considerable risk to myself....I have always been of opinion, from the experience which I had whilst in the Audit Office, that the Auditor General was not in a sufficiently

⁷¹ William Knight, former Auditor General; Edward Courthope, Auditor General; Anthony Lefroy, Colonial Treasurer; Roger Goldsworthy, Colonial Secretary.

independent position, as he ought not to be subject to have pressure brought to bear upon him by any other officer of the Government. I look upon an Audit Act as one of the most important measures which the Legislature could carry out (Report WAPP 1880 no. A6, p. 6).⁷²

Auditor General Courthope referred to a specific instance in 1878 when the Colonial Secretary had ordered him to alter the classification of an item for extra clerical assistance from the Colonial Secretary's department to "Miscellaneous Services", thereby reducing expenditure in the department. Courthope stated: "I made the alteration under protest" (Report WAPP 1880 no. A6, p. 7). He admitted he had found it necessary "on several occasions" to consult the Colonial Secretary over the classification of accounts, which he would "never" have done if he "had been in a perfectly independent position" (Report WAPP 1880 no. A6, p. 7). He felt "bound to obey the order of the Colonial Secretary" even though he did not believe that any officer had any right to "interfere" with his decisions except the governor, but had not referred their differences of opinion to the governor, perhaps because "I consider the Colonial Secretary to be the mouth-piece of the Governor" (Report WAPP 1880 no. A6, p. 7).

The Colonial Treasurer, Lefroy, made no comment in his statement of evidence regarding the Auditor General's independence, being only concerned with the proposed administrative changes to the financial management system. Lefroy was adamant that compelling department heads to comply with the existing regulations would ensure a "better audit...of the Public Accounts...than under the Regulations proposed in the Audit Act" (Report WAPP 1880 no. A6, p. 7).

The Colonial Secretary's statement was a response to Courthope's allegations regarding the altered account classifications. Goldsworthy freely admitted directing Courthope to change the item in question to "the proper head of service", but he also pointed out that the "Auditor General had no orders from me not to make an explanation of this expenditure in the Comparative Statement" (Report WAPP 1880 no. A6, p. 7).

⁷² More of Knight's evidence to this Committee, relative to the procedure for checking the authorisation of expenditure, was referred to earlier in the discussion on excess expenditure.

The Select Committee was "unanimous" that the majority of the *Audit Bill*, "with a few trifling alterations...would secure an efficient audit of the public accounts, and would enable the real financial position of the Colony to be at any time readily ascertained" (Report WAPP 1880 no. A6, p. 3). They reported only one major difference of opinion, over the retention of the first two clauses. A majority of the Committee (four elected Council members) wanted to keep them, in order to provide the Auditor General with sufficient security "to enable him to carry out his duties without interference from officers unconnected with his department. The evidence of both the late and the present Auditor General being strongly confirmatory of this view" (Report WAPP 1880 no. A6, p. 3).

The other three Committee members disagreed (nominee Council members George Randell and Edward Stone, and elected representative William Marmion). Their reasons for dissension were included in the Report. Marmion concurred "in the desirability (if it were possible under this Constitution) of rendering the Auditor perfectly independent, and only liable to dismissal with the sanction of the Legislative Council", but this would be "entirely at variance with the spirit of the Colonial Office Regulations" and "the retention of clauses 1 and 2 in their present shape would hazard the loss of the Bill" (Report WAPP 1880 no. A6, p. 6). Randell and Stone reiterated the arguments expressed in the second reading debate, namely, the two clauses were "out of harmony with our present Constitution", would "create distrust and friction between the Governor and the Legislature", would "interfere with the prerogative of the Crown", and were unnecessary as the current regulations were "sufficient to secure the Auditor General in his Office, [and] enable him to carry out his duties without interference" (Report WAPP 1880 no. A6, p. 6).

The West Australian reported that the Committee's differences of opinion were unsatisfactory but that "the reasoning of the minority is sound, so far as it goes" ((1880, August 24). *The West Australian*, p. 2). Nevertheless, argued the Editor, it was important to provide the Auditor General with genuine protection to ensure "really effectual" work and "a fearlessness which he probably would be quite ready to show were he assured that those in whose interests he was working had the power as well as the will to protect him" ((1880, August 24). *The West Australian*, p. 2). A contributor to *The Inquirer* reminded readers about the ongoing excess expenditure

and pointed out the *Audit Bill* was not unusual in its provisions and would result in "the safe expenditure of the public funds" (Scrutator. (1880, August 25). The Audit Bill. *The Inquirer and Commercial News* (Perth), p. 1S).

8.7 THE AUDIT BILL 1880: COUNCIL CONSIDERATION (25 AUGUST 1880)

The *Audit Bill 1880* and the recommendations of the Select Committee were considered in the Legislative Council on 25 August 1880. It was another lengthy and frequently heated session, filling 10 pages of *Hansard*, with almost the entire session taken up by debate on the first clause (concerning the removal of the Auditor General) (WA, LC, August 25, 1880, pp. 223-233).

Elected representative George Shenton opened the debate by immediately moving for the first clause to be struck out, on the grounds that its provisions were unworkable under the current constitution (representative government). He had been unconvinced by the evidence provided by the two Auditors General. Knight had admitted just one instance of being pressured, which he had resisted, and Courthope had not thought it necessary to appeal to the governor. Shenton argued that "a great many of the complaints...recently made about the inefficiency of our audit system [were] due rather to the officer in charge of the department than to the system of audit" (WA, LC, August 25, 1880, p. 224).⁷³ One of the dissenting Select Committee members, Stone, agreed that Knight's evidence "was a mere matter of individual opinion" and that Knight had not been able to explain to the Select Committee the exact nature of the risk he felt he had taken in resisting the pressure on him (WA, LC, August 25, 1880, p. 227). Marmion, another of the dissenting Select Committee members, highlighted that only two instances of attempts to influence the Auditor General had occurred in the 10 years Western Australia had possessed representative government. He thought the Colonial Secretary's response to the Select Committee regarding the more recent attempt was "perfectly satisfactory", and if members were to examine the first attempt, "possibly they would find that...was as great a myth as the latter one had turned out to be" (WA, LC, August 25, 1880, p. 229). Lee Steere,

⁷³ Interestingly, no defence was made regarding this attack on Courthope's professional reputation.

who had chaired the Select Committee, immediately responded to the allegation that Knight's evidence of interference was a "myth", declaring:

That officer was directed by the then-Colonial Secretary to alter a certain item in his books, and because he declined to do so, and resisted the interference of the Colonial Secretary, the consequence was he was virtually driven from his office, which (to use a colloquial expression) was made "too hot" for him. (WA, LC, August 25, 1880, p. 229)

Lee Steere admitted this information about Knight's resignation from office had been received outside of the Select Committee's hearings, but reminded the Legislative Council that Knight, "a gentleman whose opinion everyone respected" had considered it "indispensable" for the Auditor General to be made responsible to the legislature (WA, LC, August 25, 1880, p. 224).⁷⁴

The Colonial Secretary then explained the circumstances around Courthope's "disingenuous" evidence (WA, LC, August 25, 1880, p. 230). The Auditor General had frequently "come to him for advice as to what heads certain items should be classified under, and that on this particular occasion the Auditor and himself had differed in opinion" (WA, LC, August 25, 1880, p. 230). The Colonial Secretary "had no idea" what the alleged protest had been. In fact, he had "often assisted the Auditor, and by doing so saved him from placing incorrect returns before the House" (WA, LC, August 25, 1880, p. 230). The third dissenting member of the Select Committee, Randell, pointed out that Courthope had not recorded a protest in his annual report to Parliament.

In response to the argument that the first clause conflicted with Colonial Office Regulations, Lee Steere pointed out that these did not have the force of legislative measures and could be easily amended by the Secretary of State. Elected representative and the Speaker of the House, Luke Leake, advised that although he generally refrained from participating in political discussions (given his dual role), on this occasion "he intended to vote....He thought that, in a Colony like this, the

⁷⁴ This is the only reference found that attributed Knight's resignation as having occurred under pressure, although *The Herald's* report of this debate records that Lee Steere's statement was received with a supporting chorus of "hear, hear" ((1880, August 26). Legislative Council, 25 August 1880. *The Herald*, p. 1S).

Auditor General could not possibly be too independent" (WA, LC, August 25, 1880, p. 232). The House, he believed, had to do something to prevent the extravagant expenditure of the past years and the Secretary of State would refuse assent if the *Audit Bill* was unconstitutional. If that should be the outcome, said Leake,

the representatives of the people in that House would at any rate have the satisfaction of knowing that they had done their duty, and that it was not their fault if an improved system of checking the public expenditure did not come into operation. (WA, LC, August 25, 1880, p. 232)

Dramatically, the result of the vote for retaining Clause 1 was even, with 10 votes supporting and 10 against. The Chairman of Committees, Cockburn-Campbell, then "gave his casting vote with the Ayes" (WA, LC, August 25, 1880, p. 233). The remainder of the *Audit Bill* then passed with the relatively minor amendments proposed by the Select Committee.

Newspaper editorial reporting on this second reading debate provide context of the underlying political struggles, compared to the more restrained official *Hansard* record. It was variously described as "a real honest parliamentary battle", a "fight in regard to a matter of more than usual importance", "exciting and enjoyable":

The effort made on the 25th was strenuous, and narrowly missed being successful. As will be seen by the division list, three elected members ranged themselves beside the occupants of the Treasury and Nominee benches, the twenty members in committee being then equally divided. And when the CHAIRMAN gave his casting vote in favor of the clauses as they stood, the hearty cheers which burst from the representatives of the people showed how deep was the interest they took in the fate of the measure. ((1880, August 31). The Audit Bill. *The West Australian*, p. 2)

THE Audit Bill...passed its second reading by a majority of one....the victory was all the more delicious from its having been in peril, and while the face of the Chairman of Committees beamed with satisfaction as he gave his casting vote with the "Ayes" the victorious ten received the announcement...with cheers of delight. ((1880, August 28). *The Herald*, p. 2)

The *Audit Bill* was read in the Legislative Council a third time on 30 August 1880 and passed. This "battle" had been won. However, the actual war for an independent Auditor General and Legislative control over public expenditure was far from over.

8.8 THE AUDIT BILL 1880: ASSENT WITHHELD (3 SEPTEMBER 1880)

Governor Robinson's response to the *Audit Bill 1880* was provided in a lengthy Message (No. 22 of the session) on 3 September (Message No. 22: The Audit Bill, 2 September 1880. WA, LC, September 3, 1880, pp. 324-327). In short, he considered that the *Audit Bill* contained provisions both inconsistent with his own instructions and unnecessary, therefore it was his duty to withhold assent.⁷⁵ He provided three reasons for choosing this course of action. The first reason was that he found no necessity to protect the Auditor General from "being compelled to yield to improper instructions" because the "danger...is far too remote to call for serious attention" and even if "a Governor could be found who would be guilty of so grave an irregularity", under Colonial Office regulations all senior officers had the option of appealing against their dismissal to the Secretary of State (WA, LC, September 3, 1880, p. 324). The evidence of exactly such pressure that had been presented to the Select Committee by Knight and Courthope was understood by Robinson as proof that the Auditor General actually did possess adequate independence, as per this extract:

The solitary instance which Mr. Courthope cites of the Colonial Secretary having required him to alter the classification of a particular amount is proof, not that the present system is bad, but that *the Auditor gravely neglected his duty in carrying out what he considered an improper "order" as to classification instead of applying to the Governor* (as is usual in all such cases) to decide the point in dispute. His predecessor states that he once resisted pressure being brought to bear upon him by the Colonial Secretary to alter his books in a manner which he did not think right, and though he adds that he resisted at considerable risk, *he does not state what that risk was, nor does he appear to have suffered in any way for honestly*

⁷⁵ Under the representative government constitution provided by the *Australian Constitutions Act 1850* (Imp.), any legislation passed by the Legislative Council still had to receive assent from the governor and final approval from the Crown. The governor could choose from several options when presented by the Parliament with an approved bill. Gubernatorial assent could be provided immediately (although subject to final approval from Britain); the bill could be either vetoed in its entirety by the governor or sent back to the Legislative Council for re-consideration; or the governor could defer a decision to the Secretary of State—the usual wording being that the bill had been "reserved for the signification of Her Majesty's pleasure thereon".

doing his duty. (WA, LC, September 3, 1880, p. 325) [emphasis added]

Governor Robinson's second reason for withholding assent was that he identified the clause prohibiting the Auditor General from membership of the Executive or Legislative Councils to be in direct conflict with his own powers of nomination to both Councils and so impossible to approve (as noted earlier). Thirdly, Robinson did not believe there was anything to be gained from the *Audit Bill* in terms of restraining excessive expenditure. The governor's direct responsibility to the Secretary of State provided "as full and ample security for the proper and economical expenditure of public money as would be provided by the bill under consideration", because it enabled the Legislature to appeal to the Secretary of State if it considered the governor to be acting extravagantly or with impropriety (WA, LC, September 3, 1880, p. 325).

Governor Robinson concluded his Message by reiterating his support of an efficient audit process and reminding the Legislative Council of his references to the topic in his opening address. He would, naturally, be willing to consider the subject again and in fact intended to present the next Parliamentary session with "a measure which...will at all events satisfy the wish of your Council to see the regulations of the Treasury and Audit Departments embodied in legal form" (WA, LC, September 3, 1880, p. 327). For now, he intended to appoint a Commission to identify potential improvements for account keeping by comparing the existing regulations with those proposed in the *Audit Bill 1880*. The outcome would be what they all ultimately desired—"the perfecting of the working condition of all Government Departments"—and he had already implemented some improvement measures. (WA, LC, September 3, 1880, p. 326). As the Legislative Council had "wisely" agreed to his proposal for providing "a competent book-keeper in the Treasury", accounts could now be classified there as well in the Audit Office, thereby relieving "the Auditor of some of the great labor now thrown upon him in the preparation of Financial Returns, and allow him more time for the primary duties of his department" (WA, LC, September 3, 1880, p. 327).

Nevertheless, Governor Robinson expressed regret that he had not been directly addressed by the Legislative Council about seeking this outcome in the first place, as it would have been a far quicker and more effective process. Although he "in no way" questioned "the undoubted right of the Legislative Council to pass and send up for his consideration such bills as they think proper", Robinson added:

At the same time, constitutional authorities are agreed that measures for redressing grievances or improving the condition of the service can most conveniently be approached in the first instance by means of an Address to the Crown, and had your House adopted this course on the present occasion the Governor would have had great pleasure in immediately meeting your wishes, and the matter might then have been disposed of during the present session of Council. (WA, LC, September 3, 1880, pp. 326-327)

Public reaction to the Governor's Message varied. *The West Australian* considered that "the real grievance of the Council is completely ignored" (the "contempt of that constitutional provision which makes expenditure in excess of the Appropriation Acts of the Legislature illegal" and that "nothing has done more to foster the feeling in favor of Responsible Government than this" ((1880, September 7). *The West Australian*, p. 2). *The Inquirer* newspaper, conversely, agreed with Robinson's reasoning and saw his refusal to give assent to the *Audit Bill* as "the natural, we might say the necessary, consequence of the ignorance and want of tact shown by its proposer and his supporters in the Legislative Council" ((1880, September 8). *The Inquirer and Commercial News*, p. 2).

8.9 THE AUDIT BILL 1880: PARLIAMENTARY MEMORIAL (6-8 SEPTEMBER 1880)

The Opposition's response to the Governor's Message was to propose sending a Memorial to the Secretary of State seeking support for the *Audit Bill 1880*, a strategy enabling them to argue their case directly to the Colonial Office (WA, LC, September 6, 1880, p. 339). Presented by Lee Steere on the very next sitting day, the Memorial argued that gaining representative government had not achieved its primary object of providing a voice to the people to "control the expenditure of the public revenue" (WA, LC, September 6, 1880, p. 339). As a direct result, the *Audit Bill* was introduced in order to provide a means by which "the theoretical

responsibility of the Government to the Council in regard to expenditure might be practically enforced" (WA, LC, September 6, 1880, p. 340). Governor Robinson's three primary objections to the *Audit Bill* were then countered. Firstly, Auditor General independence was essential because public sector audit

is supposed to be carried out not so much for the satisfaction of the Government, which spends, as of the Council whose money is spent. Obviously, therefore, the Auditor General should not be the mere servant of the Government which he has been hitherto. (WA, LC, September 6, 1880, p. 340)

Secondly, the perceived conflict with the governor's Royal prerogative to appoint Council members was not considered a serious objection. Thirdly, the existing regulations for keeping and auditing the public accounts, "however perfect they may be, have produced the most imperfect results" (WA, LC, September 6, 1880, p. 340). Either the existing system was defective, or it had been "very badly" implemented and, of the two possibilities, "your memorialists prefer to adopt the first" (WA, LC, September 6, 1880, p. 341).

The Parliamentary debate on the motion for adopting the Memorial was held in Committee and endorsed by nine votes to seven, although nominee members did raise a point of order which was promptly dismissed by the Chairman of Committees (who added that he thought those who had raised the query "were catching at a straw") (WA, LC, September 6, 1880, p. 341). Procedurally, then, a formal motion was made for the House to adopt the decision just made in Committee but this was immediately opposed by government members. There was no need for such a Memorial, they argued, and it was unlikely that the electors would support the action. Eventually the Memorial was adopted by ten votes to seven (the additional supporting vote coming from Cockburn-Campbell who, as Chairman of Committees, had not taken part in the previous vote).

In Parliament the next day (7 September 1880), Lee Steere moved for a formal Address in reply to the Governor's Message. The proposed Address thanked the Governor for his courteous message and countered some of the statements. Once again there was lengthy debate (almost 10 pages of *Hansard* reporting), with

nominee and official government members vigorously protesting and moving to have all the wording struck out except for a brief acknowledgement of receipt (WA, LC, September 7, 1880, pp. 353-362). When it came to the vote, the Address as originally proposed was accepted by nine votes to seven. It was received by Governor Robinson the next morning, which was also the final sitting day of the 1880 Parliamentary session. Robinson immediately sent another Message (no. 26) to the Legislative Council which acknowledged its receipt and countered the arguments made in the Address using much the same reasoning as expressed previously (WA, LC, September 8, 1880, pp. 366-367).

Soon after, Robinson made his prorogation speech and expressed his gratification for the close attention that had been given to financial affairs as it "will have satisfied you that the Government have been mindful of economy, and of the necessity of replacing our finances on a sound and satisfactory basis" (WA, LC, September 8, 1880, p. 368). In regard to the Memorial, Robinson assured the Legislative Council he would "cheerfully acquiesce" if the Secretary of State responded with authorisation to assent to the *Audit Bill* (WA, LC, September 8, 1880, p. 369). However, he also noted his personal deep regret that he had not been made aware that the Memorial was to be brought forward (it had not "been published in the usual way in the Notice Paper"): if he had known, he would "for obvious reasons" have requested government members not to oppose it (WA, LC, September 8, 1880, p. 369). Therefore, there was "no need for departing, either in the spirit or in the letter, from the rules which are wisely laid down by Parliament for the purpose of guarding against surprise" (WA, LC, September 8, 1880, p. 369). This final comment appears to have been intended as "a parting blow" to the elected members—a tactic which, ironically, is exactly what nominee member Randell had alleged the Opposition was endeavouring to do the day before with their Message to the Governor (WA, LC, September 7, 1880, p. 357). Certainly *The Herald* interpreted the Governor's statement as "a direct and severe rebuke", and one which the elected members deserved ((1880, September 11). *The Herald*, p. 2).

8.10 OTHER PARLIAMENTARY BUSINESS IN 1880 SESSION

The introduction of, and progress on, the *Audit Bill 1880* discussed above, was of course not the only business conducted in this 1880 Parliamentary session. The usual annual financial business, including the appropriation process, had to be conducted and there was other fiscal activity such as a proposed loan of £310,000 to extend a railway line to the eastern settlement of York. Some of this business is referred to here as it provides evidence that elected members continued at every opportunity to pressure the Executive on financial issues. It was even reported in Victoria (via a local correspondent) that members were "taking things a good deal more into their own hands than they have done hitherto, more especially in regard to the public accounts,...greatly to the annoyance of the unfortunate and much-badgered Government" ((1880, September 2). Intercolonial: Western Australia. *The Argus* (Melbourne), p. 1).

8.10.1 Provision of financial returns

Elected members experienced "exasperating delay and difficulty" in obtaining financial information during the session and this developed into what was described in *The West Australian* as a "passage of arms between the Colonial Secretary and the member for Perth" ((1880, August 20). *The West Australian*, p. 2). Lee Steere and Stephen Parker called for several financial returns on 26 and 27 July 1880, asked for a progress update on 13 August, and on 16 August Parker moved that the Governor be asked directly for the various returns (WA, LC, July 26, 1880, p. 30; July 27, 1880, p. 34; August 13, 1880, p. 144; August 16, 1880, pp. 157-160). Parker also suggested that the Colonial Secretary "actively resented the interference of members in thus daring to ask for information, his idea apparently being that they ought to take on trust whatever figures the hon. gentleman liked to lay before them" and was criticised for making this personal attack (WA, LC, August 16, 1880, p. 157). Governor Robinson's response, on 20 August, agreed to provide the returns and confirmed the delay resulted from the "unusually heavy work on the Departments concerned" and certainly "not to any disinclination on the part of the Colonial Secretary to meet the wishes of the House" (WA, LC, August 20, 1880, p. 167). Governor Robinson later also claimed that part of the reason for the delay was "the

want of a competent Book-keeper in the Treasury" (part of the Colonial Secretary's department) (WA, LC, September 8, 1880, p. 367).

The Herald expressed annoyance that the five weeks of the Parliamentary session to date had been "occupied almost exclusively by motions for returns on one side of the House, and by reasons for withholding or delaying them on the other side" ((1880, August 21). *The Herald*, p. 2). Lee Steere prepared an Address to Governor Robinson citing the delays in obtaining returns "as a proof of the inefficiency of the present system of keeping the accounts" and giving the following examples:

The return which you ordered to be made, on the 6th of May, 1880, showing the true financial position of the Colony on the 31st December, 1879, was not completed by the Treasurer and forwarded to you until the 2nd of July, 1880....A return of the financial condition of the Colony on the 1st of July, moved for by the House on the 27th of July, has never yet been furnished. (WA, LC, September 7, 1880, p. 354)

The second return referred to above was actually tabled on the same date this Address was read (the penultimate sitting date prior to prorogation). Even then, noted Stephen Parker, it "was not the sort of return he had asked for at all—although the Government had taken about six weeks to prepare it" (WA, LC, September 7, 1880, p. 362).

8.10.2 Excess Bill for 1879

An *Excess Bill* for 1879, presented on 28 July 1880 by the Colonial Secretary, was for an amount ("an excess of a trifle over £18,000") significantly less than that expected from the comparative financial statements presented on the opening day (less than two weeks earlier) (WA, LC, July 28, 1880, p. 46). Although this reduction was presented to the Legislative Council as a positive event, it did not engender confidence in the accounts. When even more "discrepancies between the figures embodied in the Bill and the comparative statement of revenue, and expenditure furnished by the Auditor General" were immediately found, the *Excess Bill* was referred to a Select Committee for closer examination (WA, LC, July 28, 1880, p. 49). The Committee's work was held up by delays in obtaining various necessary

returns and its Report was not presented until 7 September, the day before prorogation. The Legislative Council then refused to adopt the Report as they had no time left "to wade through the elaborate returns upon which the report was based" ((1880, September 14). *Excess Bill—Report of the Select Committee; The Excess Bill, for 1879. The West Australian*, p. 3). Given that, it was pointless to consider the actual *Excess Bill* itself. The scheduled second reading did not proceed and the *Excess Bill* was effectively dismissed for the present.

8.10.3 Supplementary votes for 1880

The Colonial Secretary moved on 9 August 1880 for the House to consider and approve a Supplementary Vote of £3,775 for the current year, above the £176,256 approved the previous October (in 43 Vic., No. 27—*Appropriation 1879* (WA)). This was a "somewhat unusual" course, he admitted,

but he felt sure that the feelings of the House would be with him when he explained the reason for its adoption. That reason simply was, that the votes appropriated by the House for the services in question had proved inadequate, the actual expenditure having exceeded the estimated expenditure. (WA, LC, August 9, 1880, p. 111)

Perhaps predictably, the "feelings of the House" were not with him and the matter was referred to the Select Committee then considering the *Excess Bill*. That Committee found the approved appropriations for some items had been underestimated and there had been unexpected demands on other departments. There had also been some unauthorised expenditure in the Minor Works item, in addition to heavy expenditure, and "the Committee were apprehensive that unless a considerable reduction was effected under this head, the Supplementary Vote now asked for...would be insufficient to meet the expenditure for the remainder of the year" (WA, LC, September 3, 1880, p. 318). The Report was adopted and the *Supplementary Bill* was passed on 8 September 1880, the final sitting day of the session, with little comment beyond the inclusion of one relatively small item.

8.10.4 Appropriation for 1881

The *Appropriation Bill* for 1881 was introduced by Colonial Secretary Goldsworthy, who then moved for a suspension of the Standing Orders "with a view to the Bill being passed through all its stages that evening" (WA, LC, September 3, 1880, p. 330). Goldsworthy wished to have the Bill finalised urgently as it was his last appearance in the Parliament. However, the Opposition made it very clear they were not at all prepared to rush the discussion. Lee Steere stated he could not consent to the motion for suspension "under any such circumstances. In fact, it is a matter for serious consideration whether the House will be prepared to pass the Bill at all" (WA, LC, September 3, 1880, p. 330). The House then adjourned for the evening, at the relatively early time of 9.45 p.m. The second reading, as it turned out, went through Committee without discussion and the *Appropriation Bill* was passed 7 September 1880.

The Legislative Council did request Governor Robinson to appoint a Commission during the Parliamentary recess "into the whole question of Departmental Expenditure" in order to identify potential reductions (WA, LC, September 7, 1880, p. 352). The Report of the Departmental Commission was tabled the following year, on 27 July 1881 and its findings were used to inform the Estimate process in 1882. *The Herald* was expressed scepticism about its effectiveness: "No serious reductions are contemplated, and departments are left almost untouched. No such mutilations as proposed by the Departmental Commission appear to be entertained by the Government" ((1881, August 20). *The Herald*, p. 3).

8.11 CHAPTER SUMMARY

This chapter provided a detailed study of the difficulties experienced by the Legislative Council in passing the *Audit Bill 1880*. The vigorous opposition from the Executive at every stage of progress to the *Audit Bill*, the subsequent Address to the Governor and Memorial to the Secretary of State, are all evidence that establishing the Auditor General as independent officer of Parliament was clearly recognised as providing an effective restraint on Executive expenditure. The amount of press coverage also indicates there was genuine public interest in the outcome. Western

Australian colonists had elected representatives who had made introducing an Audit Bill a key part of their policy platform, and they wanted genuine enforcement of their constitutional rights. The ultimate outcome is examined in the next chapter.

CHAPTER 9

THE EFFECT (1881-1904)

9.1 INTRODUCTION

This chapter focuses on the Parliamentary events in Western Australia following the *Audit Bill 1880* (WA) and the continuing efforts, and effects, of increasing Legislative control over public expenditure. Governor Robinson prorogued the Legislative Council on 8 September 1880 for three months (to 8 December 1880), then again to 8 February 1881, and the new session finally began 21 March 1881. Western Australia had to wait several months for the Secretary of State's response with a final decision on the *Audit Bill*, and Governor Robinson had to explain the events of the 1880 session to the Colonial Office and satisfy the colonists that the Executive was administering in their best interests.

9.2 A WAITING GAME

In the six-month interim between the Parliamentary sessions of 1880 and 1881, and while awaiting the Secretary of State's response regarding the *Audit Bill 1880*, the local press continued to dissect past events and predict possible outcomes for Western Australia's constitution, the *Audit Bill* and the government's financial management arrangements. Newspapers in the eastern Australian colonies also published synopses of the events which included the history of excess expenditure resulting in the introduction of the *Audit Bill*, the necessity for an independent Auditor General, the Memorial to the Secretary of State and the refusal to pass the *Excess Bill*.⁷⁶ *The West Australian* editorial immediately after prorogation expressed satisfaction that, as a direct effect of the *Audit Bill* "peg", expenditure of public money was now likely to be restrained within the estimates:

the Governor in messages addressed to the Council has clearly intimated that it is his intention in the future to adhere strictly to the law, and from past experience of His Excellency's action, we have every reason to believe that his intention will be conscientiously carried out. ((1880, September 10). *The West Australian*, p. 2)

⁷⁶ See, for example, Our Own Correspondent. (1880, September 27). Western Australia. *The Argus* (Melbourne), p. 7; (1880, September 30). Intercolonial. *The Argus* (Melbourne), pp. 1S; (1880, October 7). Western Australia. *South Australian Register* (Adelaide), p. 6.

The Herald stated its own certainty that Governor Robinson's decision to withhold his assent from the *Audit Bill* was considered and inevitable, but simultaneously critiqued two of the Governor's comments about the Auditor General in his closing speech. The Governor's assertion that the Auditor General had "nothing to fear so long as he does his duty" was held to be incorrect, as the Auditor General was "nothing more than a mere clerk and..., though independent in theory, must in practice do as he is told. In a conflict with the Governor he has everything to lose and nothing to gain....He therefore obeys orders" ((1880, September 11). *The Herald*, p. 3). Secondly, Robinson's claim that no governor would apply pressure to, or attempt to interfere in, the Auditor General's work could not be sustained "in the face of the deceptive accounts which have been presented to the House for years past": that, in fact, this deception proved "the Auditor has for some time past had to make up his returns to order and not as they would have been made up if he had been left to himself" ((1880, September 11). *The Herald*, p. 3). *The Herald* also returned to the promotion of responsible government. The *Audit Bill*, to its proponents, "was a test measure to decide whether the constitution could be so altered in principle as to be made acceptable" and the Secretary of State might decide to either grant responsible government or make an unexpected constitutional decision and remove even "that semblance of a parliament" currently in place ((1880, September 18). *The Herald*, p. 2). In either case,

it will be quite clear to the Secretary of State that the Governor cannot be exposed to be again bullied and insulted as he has been, or that a legislative assembly which has no responsibility, should be constantly appealing to the Home Government about its rights. ((1880, September 18). *The Herald*, p. 2)

The third major newspaper in Western Australia at the time, *The Inquirer*, wrote that no one could look back on the Parliamentary session "with any feeling of satisfaction" ((1880, September 15). Review of the Session. *The Inquirer and Commercial News*, p. 2). The Editor agreed it was the passage of the *Audit Bill* which had been the "measure that caused the greatest interest outside the House" and expressed disapproval of "the regrettable delay of the Government in submitting their annual Financial Statement" ((1880, September 15). Review of the Session. *The Inquirer and Commercial News*, p. 2).

A regular contributor to *The Inquirer* criticised *The West Australian* for being the "organ" of the pro-*Audit Bill* supporters and for having "threatened us with four years' continuance of the present abortive state of legislation unless the Government concede the unreasonable demand for a 'legislative' Auditor" (Verus. (1880, September 22). Our Open Column. *The Inquirer and Commercial News*, p. 3). *The West Australian* responded vigorously to this criticism, pointing out that however sincere Governor Robinson might be in his own assurances about the "unconstitutional proceedings" which had resulted in the many excess bills, he "might at any moment be succeeded by a Governor whose views in regard to the exercise of power would be of a different kind" ((1880, September 24). Occasional Notes, Local and General. *The West Australian*, p. 3). Three further letters to the Editor of *The West Australian* about the *Audit Bill* were published in this same issue (A Chip off the Old Block, A Plea for Cricket; York Colonist, Our Boys; MLC, An Insult Resented. (1880, September 24). Correspondence. *The West Australian*, p. 3).

9.2.1 The *Audit Bill* 1880: official follow-up

Governor Robinson's own actions following the Parliamentary session took some weeks to complete. His immediate concern appeared to be how to prevent the introduction of responsible government. In a confidential despatch to the Secretary of State regarding a Parliamentary request for a major railway loan, Robinson advised that Britain's approval of the loan would "probably have the effect of deferring the introduction of Responsible Government for a few years longer" and noting that in "each Session the Legislative Council becomes more and more unmanageable" (Robinson to Kimberley, 22 October 1880, Governor's confidential despatches to Secretary of State, SROWA, Cons 390 v.47). The Colonial Office responded that they were well aware "a refusal to comply with the wishes of the Legislative Council may lead to a revival of the demand in the Colony for Responsible Government", but such agitation was only to be expected on any occasion that the British government "may deem it their duty to reject or modify proposals by the Colonial Legislature for expenditure which, in their judgement, are not warranted by the financial condition of the Colony" (Kimberley to Robinson, 9 January 1881, Confidential despatches received from Secretary of State, SROWA, Cons 391 v.259). Robinson was advised that the best arguments to use against any renewal of the calls for responsible

government were the small population of Western Australia and the possible removal from the colony of "a considerable part" of the northern territory (Kimberley to Robinson, 17 June 1881, Confidential despatches received from Secretary of State, SROWA, Cons 391 v.259).

Governor Robinson did not transmit the Parliamentary Memorial on the *Audit Bill* and the accompanying documents to England until 12 November 1880, two months after Parliament had been prorogued.⁷⁷ His covering letter indicated that there was one principal question "which calls for Your Lordship's decision, namely, the proposal to make the Auditor General responsible to the Legislative Council by enacting that he shall not be removed from office unless upon the Address of that body" (Robinson to Kimberley, 12 November 1880. WA, LC, April 4, 1881, p. 127). Robinson pointed out that the relevant clause in the Bill regarding Auditor General independence had only been carried by the casting vote of the Chairman, and that his own refusal to grant "assent to this principle has been supported by the leading Journals of the place (the *Inquirer* and *Herald*), and I believe by public opinion generally" (WA, LC, April 4, 1881, p. 127). In the meantime, Governor Robinson advised, he intended to "bring in a Bill next Session to embody revised regulations for the Treasury and Audit Departments" based on the findings of a Commission he was about to appoint to compare the existing finance regulations with those in the *Audit Bill* (Robinson to Kimberley, 12 November 1880. WA, LC, April 4, 1881, p. 128). Robinson would be glad to know if His Lordship wished him to include a provision in the new Bill "to make the Auditor General independent of the Government, as desired by certain members of the Legislative Council, or whether Your Lordship concurs in the views which I have expressed on this subject" (WA, LC, April 4, 1881, p. 128).

In reference to the "alleged extravagance of former Administrations, as showing the necessity for placing the Auditor in a position independent of the Government, and of enabling him to exercise a check on expenditure not sanctioned by the Legislature", Robinson assured the Secretary of State of his commitment to financial

⁷⁷ A transcript of this and other correspondence relevant to the *Audit Bill 1881* is in Appendix 9. A copy was provided to the Legislative Council in April 1881, some weeks after the response was received from the Secretary of State.

economy and the prompt, efficient audit of public accounts, observing that the *Estimates Bill* for 1881 had been passed with very little alteration—"which is, in itself, an admission on the part of the Legislative Council that the Government have been mindful of economy" (WA, LC, April 4, 1881, pp. 127-128). However, Robinson conveniently omitted any mention of the *Supplementary Bill* for 1880 (also passed in that session) or of the *Excess Bill* for 1879 (which had not been passed).

Accompanying this official correspondence was a confidential despatch, dated 13 November, that revealed a very different thinking on the Governor's part regarding the *Audit Bill* to the one expressed in his public speeches, responses to Parliament and official correspondence (Appendix 9). This private correspondence began by explaining how the Legislative Council's Memorial to the Secretary of State had been privately printed and hurried through Parliament, allegedly because its promoters believed that he (Robinson) would have prevented its adoption if he had known about it beforehand (Robinson noted that Lee Steere had admitted this to him, privately). Robinson criticised "this sharp practice" and assured the Secretary of State that his censure in his closing speech had "been endorsed by the press and by public opinion generally" (Robinson to Kimberley, 13 November 1880, Governor's confidential despatches to Secretary of State, SROWA, Cons 390 v.47). Robinson had privately advised Lee Steere "how sorry I was that my duty obliged me to take a course which I feared would be displeasing to him" (the rejection of the *Audit Bill*), and had explained to him "the mistake made by the Council...in claiming a right which could only be demanded as a concession" (Robinson to Kimberley, 13 November 1880, Governor's confidential despatches to Secretary of State, SROWA, Cons 390 v.47). More tellingly, Robinson concluded with the admission that the "key note" to the local politics was the "political necessity with the elected Members to harass and attack the Government" (Robinson to Kimberley, 13 November 1880, Governor's confidential despatches to Secretary of State, SROWA, Cons 390 v.47). The Secretary of State responded (in February 1881) to this lengthy private letter from Governor Robinson with a simple, one-sentence letter merely acknowledging its receipt (Appendix 8: Kimberley to Robinson, 19 February 1881, Confidential despatches received from Secretary of State, SROWA, Cons 391 v.259). The lack of attention to Robinson's complaints indicates the Colonial Office was not particularly interested in these minutiae of personal colonial politics.

9.2.2 Finance Commission inquiry

The appointment of the investigative Finance Commission, promised by Governor Robinson in his Message advising his decision to withhold assent from the *Audit Bill* (3 September 1880, noted above), was announced in the *Government Gazette* on 7 December 1880. Its objective was to consider "the Regulations in force in the Financial Departments of the Government; and to report whether any, and if so what, improvements could be introduced in the mode of keeping and auditing the Public Accounts" (Report WAPP 1881 no. 15, p. 3). The four members appointed to this Commission were not elected representatives—a fact noted as significant by *The West Australian* ((1880, December 10). Occasional Notes, Local and General. *The West Australian*, p. 2). Six of the major *Audit Bill* proponents were simultaneously appointed by Robinson to a Board inquiring into scab disease in sheep (Lee Steere, Lefroy, S. Burges, T. Burges, C. Harper and Hooley). *The Herald* also understood these appointments as highly political, arguing that the *Audit Bill* supporters were too biased against the existing financial regulations to serve impartially on the Finance Commission and predicting that the existing financial regulations would be "approved as a whole and as sufficient for the purpose for which they are intended—as, in fact, they probably are" ((1880, December 18). *The Herald*, p. 2).

The Herald's prediction was incorrect, because the Finance Commission's Report, presented to Governor Robinson on 5 February 1881, concluded with the damning opinion "that, so far as the existing mode of keeping and auditing the Public Accounts is concerned, one more incomplete or less calculated to ensure correctness could not be adopted" (Report WAPP 1881 no. 15, p. 3). One of the Commission's major concerns was that the Treasury books "appear to be audited, if ever, at very long intervals, nor does the Auditor appear ever to check the Bank balances" (Report WAPP 1881 no. 15, p. 4). Further, the Report also noted:

15. The Auditor General's Department is instituted, we conceive, in order to provide a check on the Treasury Accounts.

16. This does not appear to be so understood by the Auditor General.

17. Indeed, as the Colonial Accounts are now kept, the Treasurer is merely a cashier, and the Auditor General fills, to a certain extent, only the position of book-keeper. (Report WAPP 1881 no. 15, p. 11)

Consequently, among the Commission's 16 recommendations for improvement were that the Auditor General should complete monthly audits of all the Treasury books and report the completion of that task directly to the governor, particularly noting any irregularities. Further recommendations were that, prior to publication in the *Government Gazette*, the Auditor General should audit the Treasurer's regular quarterly returns of loan accounts, revenue and expenditure, plus a new half-yearly balance sheet showing the financial position of the colony. The Commission agreed that public accounts should be "kept in accordance, as far as practicable, with the Treasury Regulations of 1847-49"; unless that was done then "it will always be very difficult, if not impossible, to arrive at a knowledge of the actual state of the Colonial Finances" (Report WAPP 1881 no. 15, p. 11).⁷⁸ Governor Robinson authorised the Treasurer and Auditor General in mid-March 1881 to adopt these recommendations "at once, in their entirety" (Report WAPP 1881 no. 15, p. 11).

Questions regarding the expected tabling date of the Commission's Report were asked early in the first Parliamentary session of 1881 (WA, LC, March 23, 1881, p. 25).⁷⁹ Governor Robinson clarified that, although he had received the Report and had directed the provisional implementation of the recommendations, it would be publicly presented in the next session along with a Bill to enforce the recommended financial regulations. "In the meanwhile,...the Governor has no doubt that the changes proposed will be highly beneficial to the Service" (WA, LC, April 4, 1881, p. 126). The Commission's Report was not officially released until 11 June 1881, in the interim period between the two Parliamentary sessions of 1881.

⁷⁸ The Treasurer (Lefroy) had explained to the Commission that the current mode of account keeping had arisen in 1871, when the workload had increased substantially following the implementation of representative government and public accounts were no longer sent to Britain for audit. Until that point, the public accounts had been kept in accordance with the Treasury Instructions of 1847-1849. Lefroy had requested additional assistance in 1871, but was refused and "told that it was not considered necessary to keep the accounts as formerly" (Report WAPP 1881 no. 15, p. 6). In early 1880 Lefroy had written to the Governor regarding "the unsatisfactory manner in which I considered the Public Accounts were kept" (Report WAPP 1881 no. 15, p. 7). Lefroy again applied for the assistance of a book-keeper and, although this had been granted, no suitable person had been found.

⁷⁹ This first Parliamentary session of 1881 (21 March to 7 April 1881) was intended principally to consider a railway loan. New members included the new Colonial Secretary, Lord Gifford, and the new Attorney General, A. C. Onslow. The second, longer session was 25 July to 16 September 1881.

9.3 THE AUDIT BILL 1880: OFFICIAL REFUSAL FROM BRITAIN

In the final week of the first Parliamentary session in 1881, on 4 April, Governor Robinson advised the Speaker and the Legislative Council that the Secretary of State had approved his decision to withhold assent to the *Audit Bill* (WA, LC, April 4, 1881, p. 126). Copies of the public correspondence were provided, including the Secretary of State's letter of 19 February regarding the *Audit Bill*, the Memorial and the other supporting documents (Appendix 9: Kimberley to Robinson, 19 February 1881. WA, LC, April 4, 1881, pp. 128-129). These made it very clear that Governor Robinson's views on the matter were supported by Britain. The Secretary of State confirmed that appointing the Auditor General as an independent officer of Parliament in a representative government would conflict with the governor's constitutional power to appoint and remove all public officers. An independent Auditor General could not be permitted as it "would not be in accordance with constitutional precedents"; the Secretary of State was, consequently, "unable to accede to the Memorial forwarded to me by the Legislative Council" (Kimberley to Robinson, 19 February 1881. WA, LC, April 4, 1881, pp. 128-129).

There was no time remaining in this Parliamentary session for members to discuss the failure of the *Audit Bill* to pass into law. However, there was intense and ongoing analysis in the local and wider press, indicating how seriously the matter was considered by the general public. *The Inquirer* recognised the Secretary of State's decision as fully confirming and justifying its own assessment ((1881, April 6). *The Inquirer and Commercial News*, p. 2). The advice that the Secretary of State approved of Governor Robinson's conduct regarding the independence of the Auditor General was reported in early April 1881 in at least seven separate newspapers in New South Wales, Victoria, South Australia and Tasmania ((1881, April 6): *The Argus* (Melbourne), p. 6; *The Sydney Morning Herald* (NSW) p. 6; *South Australian Register* (Adelaide) p. 5. (1881, April 9): *The Sydney Mail and New South Wales Advertiser* (NSW), p. 591; *The Australasian* (Melbourne), p. 23; *Adelaide Observer* (SA), p. 30; *The Mercury* (Hobart), p. 3).

Public attention also focussed on the fact that the Secretary of State had not referred to the concerns expressed in the Legislative Council's Memorial regarding the

government's ongoing practice of excess expenditure. *The West Australian*, in particular, expressed disappointment that the Secretary had not provided redress for the "serious grievance" of the people:

that successive Governments had for years past spent thousands in excess of appropriation, and thousands in excess of revenue, and had practically assumed a position of perfect independence in regard to all control of the Council over their disbursements, which had resulted in serious financial embarrassment to the colony ((1881, April 8). The Governor's Despatch on the Audit Bill. *The West Australian*, p. 2).

The omission, stated *The West Australian*, was the outcome of the "unfair and partizan [*sic*] manner of stating the case" adopted throughout Governor Robinson's correspondence, which had given the impression "that in reality no grievance exists" ((1881, April 8). The Governor's Despatch on the Audit Bill. *The West Australian*, p. 2). This allegation was refuted by *The Herald*, which declared the only people who considered the matter to be a grievance were those in the "extremely limited circle" of "the Audit party" and that everyone else found "the cry of the Audit party about the Legislative Council not having the powers possessed by legislative assemblies under responsible government as simply unreasonable" ((1881, April 16). *The Herald*, p. 2).

The three major newspapers in Western Australia continued to criticise each other and promote their own viewpoints regarding the related topics of Executive expenditure, legislative control (or lack thereof), and the arguments for and against representative and responsible forms of government throughout April, May and June (in the interim before the second Parliamentary session of 1881 commenced). May 1881 was particularly prolific, with literally pages of articles and letters in all newspapers with claims and counter-claims regarding the manner in which the public accounts and the annual estimates had been prepared over the past few years. Copies of correspondence discussing the matter between the Governor, Colonial Treasurer and Colonial Secretary were printed, along with the contents of despatches between the Governor and the Secretary of State, and between the Governor and Cockburn-

Campbell, Editor of *The West Australian* (and also Chairman of Committees in the Legislative Council).⁸⁰

The public was also reminded of the necessity of Parliamentary control over government expenditure, described in *The Argus* as "Checks on Expenditure" essential to a satisfactory state of financial affairs: "In every constitution based upon the British model, the exercise by the representatives of the people of what is called the 'power of the purse' is regarded as a fundamental principle" ((1881, April 9). Scientific Finance. No. V. Checks on Expenditure. *The Argus* (Melbourne), p. 13). This article explained the history and roles of the British Exchequer, Treasury, House of Commons, PAC, and public sector audit. A synopsis was published by *The West Australian* a few weeks later, noting how "party considerations" meant "the control over expenditure is very imperfect" in Australian colonies, compared to the "jealous...and rigidly maintain[ed]...authority over expenditure" exercised in the House of Commons ((1881, April 26). *The West Australian*, p. 2).

9.4 A QUESTION IN THE HOUSE OF COMMONS

At the end of May 1881, public attention again focussed on Western Australia's constitution and financial management processes with the news that a question had been asked about the alleged unconstitutional expenditure in the British House of Commons on 27 May 1881 (see Appendix 10). Such attention to a specific British colony in the House of Commons was unusual and telegraphic summaries of the event were published in Victoria and Queensland, as well as in *The West Australian* (Reuter's Telegrams. (1881, May 30). Unauthorised Expenditures by Western Australia. *The Argus* (Melbourne), p. 5; (1881, June 3). *The Brisbane Courier* (Qld.), p. 2); Associated Press. (1881, June 3). The Finances of Western Australia. *The West Australian*, p. 3). The complete text of the question and answer were published in Western Australia on 12 June, after receipt of the relevant issue of the London *Times*

⁸⁰ The fracas became so heated that Cockburn-Campbell issued a summons against the proprietors of *The Inquirer* for publishing an alleged libel against him in connection with an article on public account keeping and audit: this too became a topic of great interest and reported widely across Australia (see, for example, (1881, June 6). *The Age* (Melbourne), p. 3; (1881, June 11). *Adelaide Observer* (SA), p. 39). When the case was heard, the jury found the defendants guilty and they were fined £50 in lieu of imprisonment. The entire proceedings were, naturally, published in *The West Australian* ((1881, July 12). Supreme Court—Criminal Sitings. *The West Australian*, p. 2).

((1881, June 12). *The West Australian*, p. 2). In short, the Under Secretary of State for the Colonies was asked if the Colonial Office had received "remonstrances" about unconstitutional expenditure in Western Australia. The response was that the Colonial Office had indeed received a Memorial regarding the *Audit Bill 1880* from the Legislative Council of Western Australia in September 1880:

in which Address the Council represented that the control of the Legislature over the public purse has been merely nominal, and not real, as the present constitution of the Colony contemplates. They further stated that during the past 10 years some £160,000 has, in fact, been expended over and above the sums submitted to vote in the annual Estimates....The Secretary of State is now considering this matter, *and proposes to issue such instructions as may remove, as far as practicable, the irregularity of spending money without the previously obtained authority of the Legislature.* Her Majesty's Government are confident that they will have the full co-operation of the Governor in securing the legitimate control of the Legislature over the Public Expenditure. (UK, HC, May 27, 1881, vol. 261. cc. 1453-4) [emphasis added]

The South Australian Advertiser described the matter as "a little triumph" for the Western Australian Legislative Council, as the "efficacy of Parliamentary pressure in such matters is well known, and a little such has been brought to bear upon the Colonial Office with a very good result" (Our Own Correspondent. (1881, June 16). Our West Australian Letter. *The South Australian Advertiser* (Adelaide), p. 6).

It is not clear who or what prompted the question to be asked in the British Parliament but there were many people in London socially connected with members of the Legislative Council in Western Australia. Locally, *The West Australian* suggested the political lobbying in Britain had been prompted by the "apparently complete indifference" of the original reply from the Secretary of State to the Memorial of the Legislative Council ((1881, June 3). Occasional Notes. *The West Australian*, p. 2). *The Herald* certainly believed it was the work of "the Audit party", mischievously attempting to throw "odium on the present administration and obliging the Colonial Office at home to act where it might be otherwise indisposed to do anything" ((1881, July 30). *The Herald*, p. 2). *The Herald's* Editor was particularly indignant because the news had negatively affected the interest charged upon the colony's current loan. Had the question not been asked, "the financial

difficulties of the colony, such as they are, would have attracted no notice outside the colony nor would any enquiry have been made about them" ((1881, July 30). *The Herald*, p. 2).⁸¹

Perhaps in light of this British attention on Western Australian finances, and perhaps also in an attempt to reduce public criticism of the government's financial management processes, Governor Robinson requested the Finance Commission in early June to inspect the Treasury Department and advise him if the new system was operating effectively. The Commission's response, dated 11 June 1881, reported that it was. "We think that it is now possible, from the books at present kept in the Treasury, to arrive without difficulty or delay at a clear perception of the Financial position of the Colony" (Report WAPP 1881 no. 15, p. 12). Governor Robinson wrote to the Secretary of State on 22 June 1881 providing information on Western Australia's overdrafts, the Report of the Finance Commission and a draft Bill based on the Commission's recommendations (see Appendix 11). Robinson advised that he had already introduced the new system into the Treasury and Audit departments where it appeared to be operating well. He then authorised this letter, and the Commission's Report, to be published in the *Government Gazette*—thus openly declaring his firm control of the situation.

Governor Robinson's decision to publish the Report was judged by *The West Australian* as "somewhat surprising", as the Commission's finding that it was "now possible" to obtain "a clear position of the Financial position" was "extremely suggestive"; that "nothing could—in polite terms—be more condemnatory of the past" ((1881, June 24). Occasional Notes. *The West Australian*, p. 3). In a subsequent article, *The West Australian* argued the Commission's Report in fact justified the actions taken in 1880 in regard to the expenditure of public money and account keeping (((1881, August 2). *The West Australian*, p. 2). A similar case was made in *The South Australian*, adding that the "decided action" of the Legislative Council "may lead to a stoppage of the lax system which has hitherto prevailed":

⁸¹ The Editor appears to have missed the point that there should not have been any "financial difficulties" in the first place, let alone the fact that the loan lender was also quite entitled to know the potential risk of their own investment in the colony.

The Government has at last become thoroughly alive to the scandal of this state of things, and has obtained a competent accountant from the National Bank, a new set of books have been opened, and the accounts of the colony will probably in the future be kept in a very different way from what they have been in the past. (Our Own Correspondent. (1881, August 18). Our West Australian Letter. *The South Australian Advertiser* (Adelaide), p. 5)

9.4.1 Second Legislative Council session (25 July-16 September 1881)

Governor Robinson's opening speech on 25 July 1881 for the second Parliamentary session of 1881 included official notification of his receipt of the Finance Commission's Report and the advice that he would be submitting a Bill to the Legislative Council based on its recommendations. He was certain the Bill would "satisfy the wish of Your Honorable Council to see the Regulations of the Treasury and Audit Department [*sic*] embodied in legal form", and that the new system had "already been brought into successful operation" (WA, LC, July 25, 1881, p. 137).

Robinson also provided the letter he had received from the Secretary of State responding to the Legislative Council's Memorial. Dated 3 June 1881, just a few days after the question about Western Australia's finances had been asked in the House of Commons, this letter confirms that it was the question being asked in the British Parliament that had led the Secretary of State and Colonial Office to revisit their first official response (that they were "unable to accede" to the request in the Legislative Council's Memorial). This correspondence and the proposed new instructions were revealed to the Legislative Council and published a few days later in *The West Australian* (key extracts only) and in *The Herald* (in full) ((1881, July 29). *The West Australian*, p. 2; (1881, July 30). Correspondence upon the Questions of Over-Expenditure and the Control of the Legislature over the Public Finances. *The Herald*, p. 1S) (see Appendix 11).

The Secretary of State noted he had not commented on the complaint by the Legislative Council "that practically there is no restraint on unauthorized expenditure; in support of which they adduced figures showing the expenditure in excess of the appropriations during the years 1877, 1878, and 1879" ((1881, July 30). *The Herald*, p. 1S). Although he did not doubt Robinson's endeavours to prevent

unauthorised expenditure, he found it "impossible to deny that the procedure of the Colonial Government during past years has been open to exception in this respect" ((1881, July 30). *The Herald*, p. 1S). Further, he disagreed completely with Robinson's claim that "the Governor's sense of right, and his responsibility to the Secretary of State, furnish as ample security against excessive or improper expenditure as would...an Audit Act", stating:

It would be a dereliction of duty on their part [the Legislative Council's] to relax their vigilance in discharging this important function in reliance upon such supervision as the Secretary of State may be able to give, which, from the distance and the impossibility of thoroughly understanding local details, must necessarily be imperfect. ((1881, July 30). *The Herald*, p. 1S)

Governor Robinson was requested to report on the steps that could be taken "for the purpose of regulating and extending the control of the Legislature over the Public Finance" and was prompted with three "desirable" suggestions: providing greater details in the annual estimates; having the Legislative Council appoint a Committee of Public Accounts (a PAC) to examine all questions of expenditure; and providing prompt information to the Legislative Council "on the Financial Proposals of the Government and the details of the Revenue and Expenditure of the Colony" ((1881, July 30). *The Herald*, p. 1S).

Governor Robinson's response to the Secretary of State (dated 15 July; also published in the local press) agreed that the Legislative Council held "both the right and the responsibility of controlling the public expenditure" and to all three recommendations (Appendix 11; (1881, July 30). *The Herald*, p. 1S). Robinson advised that future estimates would include more details, that the Legislative Council already did appoint an annual Select Committee to examine over-expenditure but he would now provide for a formal committee in the new Audit Bill and, finally, his belief that the government did keep "the Council well supplied with information on financial subjects...and certainly the members themselves have not failed to make use of their undoubted right and privilege to demand it" ((1881, July 30). *The Herald*, p. 1S).

The West Australian reported that the Secretary of State's directions supported the Legislature's actions in 1880 "to promote such measures as would ensure that the control of the people's representatives over the expenditure of public money should be real, and not merely nominal" ((1881, July 29). *The West Australian*, p. 2). The governor was criticised for not admitting the justness of the ongoing complaints over excess expenditure earlier, and for not cooperating with the Legislative Council

in securing for it that "effectual control over the public finance" which the SECRETARY OF STATE declares it is both the right and the duty of the representatives of the people to insist upon. As it is, an expression of readiness to meet the wishes of the Council, penned after the receipt of definite instructions to that effect, is not a matter for very much gratitude. ((1881, July 29). *The West Australian*, p. 2)

Conversely, *The Herald* agreed with Governor Robinson that the right of controlling the expenditure of public money had "never been disputed by any administration nor ever been denied by himself"; and argued the Secretary of State had not changed his views regarding the unconstitutional strategy of the Audit party ((1881, July 30). *The Herald*, p. 2). *The Inquirer* criticised *The West Australian* for omitting to publish the sections of Governor Robinson's correspondence that justified his actions, calling it an "ingenious, though contemptible attempt to misrepresent the action of the Governor" ((1881, August 3). *The Inquirer*, p. 2). In South Australia, the despatch was reported as having been received with "great satisfaction" and as "rather a triumph for the Council, because the Governor had in all his despatches to the Secretary of State given His Lordship distinctly to understand that the Government had in reality not been in any way to blame" (Our Own Correspondent. (1881, August 18). Our West Australian Letter. *The South Australian Advertiser* (Adelaide), p. 5).

9.5 THE AUDIT BILL 1881

Referring to Governor Robinson's opening speech and the announcement that he would be presenting a Bill containing new Treasury and Audit regulations, Lee Steere observed in the Legislative Council that if the Bill did not contain a "means for enabling the Legislature to exercise an efficient control over the issuing of public money out of the Treasury, [it] will be utterly worthless" (WA, LC, July 26, 1881, p.

149). He intended to bring forward another Audit Bill himself, identical to the one presented in 1880 but "with those clauses struck out which the Secretary of State says he cannot permit to be enforced under the present constitution"—that is, the clauses related to the independence of the Auditor General (WA, LC, July 26, 1881, p. 149). If this amended Audit Bill was not sufficient to obtain Legislative Council control over the public expenditure, then "the only course open for us will be to introduce certain clauses into the Appropriation Act..., for the Appropriation Act, at any rate, is a measure which is not likely to be vetoed" (WA, LC, July 26, 1881, p. 150).⁸² *The Herald* interpreted Lee Steere's comments as a threat to the government but also contended he had "greatly reduced his demands" and his supporters would agree to an Audit Bill "with anything the Governor likes to concede to them. They have failed...with the Secretary of State and they will now gladly accept what they can get ((1881, July 30). *The Herald*, p. 2).

The first reading of Governor Robinson's new *Audit Bill 1881* occurred on 8 August 1881; the second on 12 August. The Colonial Secretary noted that although the topic had "convulsed political circles in this Colony for a considerable period", he hoped the present Bill would allay any ill-feeling and place "the system of keeping and auditing the public accounts on a safe, efficient, and unassailable basis" (WA, LC, August 12, 1881, p. 236). The *Audit Bill 1881* mandated the use of double-entry accounting and, in an important change to the Auditor General's role, transferred the responsibility for account keeping and preparing financial statements from the Auditor General to the Treasurer. Although the *Audit Bill 1881* did not contain any measures for making the Auditor General independent of the Executive or responsible to the Parliament, Clause 12 did empower the Legislative Council:

from time to time to nominate four of its unofficial members as a Committee, whose duty it would be to advise the Governor, when required, during the recess, on questions of public expenditure, and no vote of money was to be exceeded, or unauthorised expenditure incurred, until the Government had invited the opinion of this Committee in respect of such expenditure....More power was given to the Legislature, through its Committee, under this clause, than was really given to assemblies under Responsible Government. (WA, LC, August 12, 1881, p. 236)

⁸² Lee Steere did not bring forward another Audit Bill, instead supporting the legislation proposed by Governor Robinson (after amendments made in the Legislative Council).

In emergencies, the governor could incur unauthorised expenditure contrary to the Committee's advice but he would be required to advise the Legislative Council of the full circumstances at the first opportunity. Lee Steere was not impressed, describing the Bill as "nothing more than a mere skeleton" and the inclusion of Clause 12 as a weak mechanism "for preventing the unauthorised expenditure of the public money" (WA, LC, August 12, 1881, p. 237). Clause 12 required strengthening if it was to provide the Committee with "that power which it ought to have":

they should be consulted before the votes have been expended, and be informed whenever any vote was being spent faster than it ought to be, so as to enable them to assist the Governor in putting a check upon it, in time. The clause should also provide that this Committee should be elected at the commencement of each Session, and not "from time to time". (WA, LC, August 12, 1881, p. 238)

The *Audit Bill 1881* was referred to a Select Committee, chaired by Lee Steere, for consideration. Several newspapers outside Western Australia reported the next day from their local correspondent that "the Audit Bill introduced by the Government is likely to give general satisfaction in the House" ((1881, August 13). *The Argus* (Melbourne), p. 8; *Adelaide Observer* (SA), p. 29; *The Australasian* (Melbourne), p. 21; *Evening Journal* (Adelaide), p. 2; *South Australian Register* (Adelaide), p. 5). More detail published a few days later reported that while the *Audit Bill 1881* had "found popular favour generally", the government opponents showed resistance and contended that the Finance Committee's "appointment and existence...should be directed by the Council absolutely" ((1881, August 19). *Evening Journal* (Adelaide), p. 3; *South Australian Register* (Adelaide), p. 5. (1881, August 20). *The Australasian* (Melbourne), p. 15; *Adelaide Observer* (SA), p. 28. (1881, August 25). *Launceston Examiner* (Tas.), p. 3. (1881, August 27). *The Tasmanian* (Tas.), p. 815. (1881, August 29). *The Mercury* (Hobart), p. 3). *The West Australian* favourably compared the functions of the proposed Committee with the Standing PAC in the House of Commons. However, it considered the regulations defining the Auditor General's duties and responsibilities to be "very sketchy" and that they should be

strictly defined by law, so that he may be placed in a position of independence. It is clear that when he is acting simply under instructions, emanating from the Executive power, he is not in an independent position. But if he is acting under statute law, so long as

he keeps within that law, he is entirely protected against any interferences. ((1881, August 12). *The West Australian*, p. 2)

The Herald argued that the proposed Committee provided nothing "to satisfy the ambition of the Audit party or keep down expenditure", that it would be "useless for checking Governors of the dangerous type...[and], under Governors of the ordinary type, might as well not exist" ((1881, August 20). *The Herald*, p. 2). *The Inquirer* considered the Audit Bill to be a "shadowy, undefined piece of nonsense" (W.A. Punch. (1881, August 17). Our Corner for Punch. *The Inquirer*, p. 2S).

The Report of the Select Committee reviewing the *Audit Bill 1881*, printed on 5 September 1881, made several amendments and recommended six new clauses providing more detailed definitions of the duties of the Auditor General and Treasurer (Report WAPP 1881 no. A9). There had been a difference of opinion regarding the retention of Clause 12 (the Committee of Advice). The Colonial Secretary, the Attorney General and elected members Lee Steere and Septimus Burt were in favour of retention whereas elected members Maitland Brown and William Marmion were against. The reasons for and against retention were not included in the Report but evidently a compromise had been reached, for the Committee was "unanimously of opinion that the clause, if retained, should be amended as hereafter mentioned" (Report WAPP 1881 no. A9, p. 3). These recommended amendments provided for the Committee members to be elected by ballot, to continue after the dissolution of the Legislative Council until a fresh Committee was elected, and to give their opinion in writing (including any dissent).

The amended *Audit Bill 1881* was considered by the Legislative Council on 8 September 1881. The first 11 clauses, concerning the way public accounts were to be kept and audited and the preparation of financial returns, were agreed to without discussion. Then, despite the Report's alleged consensus, Brown moved for the amended Clause 12 to be struck out and was seconded by Marmion. Brown and Marmion argued that "there was a greater guarantee, as regards economy in the public expenditure, in the responsibility of the Governor to the Secretary of State, than would be ensured by the appointment of this board of advice", and that it would be awkward for the Legislative Council to oppose any excess expenditure if it had

been previously sanctioned by the Committee (WA, LC, September 8, 1881, pp. 430–431).

Support for retaining Clause 12 was expressed by elected member Stephen Parker because it appeared to be the first step towards responsible government and therefore "the first step towards making the Governor of the Colony, who, under the present Constitution, was also its prime minister, responsible to that House and to the country as regards the expenditure of public money" (WA, LC, September 8, 1881, p. 433). Lee Steere also supported retention, describing the amended Clause 12 as an important step "that would give them as great a control over the public finance as they could possibly expect under the present constitution" (WA, LC, September 8, 1881, p. 435). While it would not prevent future excess bills, these would be much smaller. Lee Steere further believed the Committee members would feel a deep sense of their responsibility to guard the privileges of the Legislative Council and that the country would look to them "to protect it from any unnecessary expenditure of the public funds" (WA, LC, September 8, 1881, p. 435).

The vote for retaining Clause 12 was easily won (11 votes to five) and the remainder of the *Audit Bill 1881* agreed to with only minor amendments and little discussion (WA, LC, September 8, 1881, p. 436). The *Audit Bill 1881* was passed on 14 September 1881. In his speech proroguing the Parliamentary session two days later, Governor Robinson noted his pleasure that the *Audit Bill 1881* had been approved, nevertheless he had reserved it for the Secretary of State to make the final decision due to his "considerable interest in this matter" (WA, LC, September 16, 1881, pp. 495–496).

The West Australian expressed surprise that Governor Robinson had reserved a decision, arguing that the Secretary of State would not be overly concerned now the matter had been agreed by both the Governor and the Legislative Council. However, the Editor also pointed out the reservation would have the effect of freeing "the Government from the intervention of the new Committee of Finance for another year" ((1880, September 21). *The West Australian*, p. 3). Such a suggestion was "contemptible", according to *The Inquirer* ((1880, September 21). *The Inquirer*, p. 2). *The Herald* noted the *Audit Bill 1881* had "little or nothing in common with Mr.

Steere's bill of last year" and did not give the Legislative Council "a tittle of the power which the Audit party sought for it" as it did not contain any measure for Auditor General independence ((1881, September 24). *The Herald*, p. 2).

The one element of this original Audit bill, without which only a year ago Mr. Steere and his supporters affirmed that it would be worthless, is wholly absent from the present bill, nor has the Legislature one atom of power to control expenditure which it has not always possessed. The Governor is merely receiving a council of advice whom he can consult if he likes and whose advice he may take or reject as he pleases. ((1881, September 24). *The Herald*, p. 3)

Crown assent was provided on 29 June 1882 and notified to the Legislative Council on 24 August 1882, when the provisions came into effect. Finally, Western Australia had its own public sector audit legislation: 46 Vic., No. 1—*Audit Act 1881* (WA). *An Act to provide for the more effectual Keeping and Auditing of the Public Accounts*. The *Audit Act 1881* did not include provisions for an independent Auditor General. That was not to occur until Western Australia was finally granted responsible government, with the passage of 54 Vic., No. 12—*The Audit Act 1891* (WA). However, the new regulations for keeping accounts do appear to have made it quicker and easier to determine the financial state of the colony. The *Appropriation Bill* for 1882 was presented with a slight change to the preamble. The usual wording that the sum appropriated was to be issued and applied "for the service of the year" had been amended to state that the money was authorised to be expended "for such services as shall come in course of payment during the year" (WA, LC, September 13, 1881, p. 458). The Colonial Secretary explained that this amendment had been made "in order to secure a simplification of the public accounts, and to afford a greater check upon the expenditure made in the course of the year", and the Bill was passed (WA, LC, September 13, 1881, p. 458). Only a few weeks later, *The Herald* commended the Treasury and Audit departments for providing the quarterly return of revenue and expenditure within three weeks, compared to almost seven weeks taken the previous year for the same period ((1881, October 22). *The Herald*, p. 3).

9.6 THE AUDIT ACT 1881 (WA): IMMEDIATE EFFECTS

9.6.1 Excess expenditure and the Committee of Advice

Excess bills continued to be presented to the Legislative Council each year but the size significantly decreased (see Figure 7.1, Chapter 7, and Appendix 8). In the nine years following the introduction of the *Audit Act 1881* (1881-1889), the proportion of excess expenditure to estimated expenditure equated to a very low average of just 1.5% per year. In comparison, the preceding decade (1871-1880, following the introduction of representative government) had an annual average of 12.4% which was only marginally less than the 12.7% annual average of the prior six years (1865-1870).

This extraordinary reduction was primarily due to the recommencement, in 1880, of the Executive presenting the Legislative Council with annual Supplementary Estimate bills.⁸³ These bills enabled the Legislative Council to consider the appropriateness and necessity of the proposed expenditure prior to it actually occurring. Excess bills, of course, were presented after the expenditure had occurred and, as pointed out in so many Parliamentary speeches and newspaper articles, there was little the Legislative Council could do except provide their retrospective approval and trust the Executive's assurances that such expenditure without their approval would not happen again. There can be little doubt that recommencing this process for gaining Parliamentary approval of expenditure resulted from the measures taken by the Legislative Council in 1880 and 1881 and its increasing pressure on the Executive regarding control over expenditure, even though the debates around the Supplementary Estimate bills did not include specific references to the *Audit Act 1881*. The Executive's stronger efforts to comply with the Legislative right to control expenditure is shown by the striking difference in its approach when presenting these Supplementary Estimate bills in 1880 and 1881, as described below.

⁸³ The practice of presenting a Supplementary Estimate bill, approximately two-thirds of the way through each financial year, enabled a better estimation of expected expenditure prior to it being incurred and so minimised the amount needing to be authorised via retrospective excess bills. They had not been used in Western Australia since 1856, a few years after excess bills had begun to be regularly presented to the Legislative Council.

The Colonial Secretary reinstated the practice in September 1880 and, rather bluntly, informed the Legislative Council that the Supplementary Estimate Bill was presented because the original estimate had been inadequate and the government needed more funds to get through the financial year. The Bill was eventually passed, but the Colonial Secretary's apparently arrogant attitude in seeking approval for the additional expenditure certainly contributed to the antagonistic debate over the *Audit Bill 1880* and to the Parliamentary decision to refuse consideration of the Excess Bill also presented in that session (discussed earlier). The following year, in contrast, the introduction of a Supplementary Estimate Bill in 1882 was accompanied by the Colonial Secretary's very careful explanation that

this Supplementary Estimate must not be regarded in the light of an Excess Bill, for it was nothing of the kind. The Government had not actually expended the votes which they now asked the House to sanction; but it was found that the sums appropriated last Session for certain departments would be inadequate to meet the expenditure which it would be necessary to incur in connection with these departments before the end of the financial year; and, the Government foreseeing this, came frankly before the House and asked it to sanction the increased expenditure which had become necessary. (WA, LC, August 1, 1882, p. 49)

The *Excess Bill 1879* was a matter of unfinished business from the 1880 Parliamentary session, when the Legislative Council had refused to pass it. It was brought forward again in August 1881 and passed with the inclusion of a statement protesting against expenditure of public money without Legislative Council sanction. Similarly, the *Excess Bill 1880* was passed after noting the incorrectness of expenditure without reference to the Legislative Council. Supplementary Estimates for 1881 were also passed.

It is also evident that after 1880 the Legislative Council scrutinised all finance bills very closely to ensure their compliance with the *Audit Act 1881* and members were quite willing to use their newly acquired constitutional power to question and amend them. It was also necessary, as it became evident that the *Audit Act 1881* provisions were taking some time to filter through into new procedures. Evidence of both this close scrutiny and slow implementation is found in the passage of the *Excess Bill 1881* presented to the Legislative Council in August 1882 (WA, LC, August 15,

1882, p. 141). The Report of the Select Committee appointed to consider the *Excess Bill 1881* identified serious concerns, including that the Auditor General himself did not fully understand that the requirement in the *Audit Act 1881* for his audit to ascertain the legitimacy of expenditure meant he now had to determine if expenditure authorised by the Governor or Colonial Secretary had also been approved by Parliament. The Committee had found "certain amounts" which it thought should have been queried by the Auditor General but he had "informed them, to their surprise, and without any beating about the bush, that if he saw the Governor's and the Colonial Secretary's names to a warrant, he considered he was relieved from all responsibility in the matter" (WA, LC, August 31, 1882, p. 253). The Select Committee reported it believed that

the Auditor General is primarily responsible for each charge covered by a warrant being a legitimate one, and that he cannot be held excused for any improper expenditure, unless he makes a special report to the Governor and Colonial Secretary in accordance with the provisions of the *Audit Act*. (WA, LC, August 31, 1882, p. 253)

The Colonial Secretary readily agreed with Select Committee's conclusions in regards to "the Auditor General, and his duty to examine into all charges of expenditure" and advised that "he should certainly bring the matter under the notice of that officer" (WA, LC, August 31, 1882, p. 253). Even though the Auditor General was still subordinate to the Colonial Secretary, this event demonstrates that the Legislative Council was now able to provide some direction and control.

In the Parliamentary session of 1883, the *Excess Bill 1882* came under close scrutiny and it became apparent that neither the Treasurer nor the Auditor General had provided the full details regarding Excess expenditure as required under the *Audit Act 1881*. The Treasurer had provided the annual statement of revenue and expenditure, showing whether such expenditure was under or in excess of the amounts authorised by the Legislative Council, but the Audit Act 1881 s. 13 also required "that if the expenditure should be in excess of the amount appropriated, the Treasurer shall state the authority under which such excess was disbursed. This had not been done" (WA, LC, July 30, 1883, p. 100). Further, the Auditor General, in his annual report, "had omitted to do almost everything he was required by law to do

under the Audit Act" (WA, LC, July 30, 1883, p. 100). Both returns were promptly submitted after the omission was pointed out in the Legislative Council (WA, LC, August 8, 1883, p. 188).

The first Committee of Advice was appointed by ballot on 4 September 1882, just over two weeks after the *Audit Act 1881* officially came into operation (on 24 August 1882) (WA, LC, September 4, 1882, p. 278). In 1883, it became apparent that Excess expenditure had occurred without the legislatively required reference to the Committee (WA, LC, July 30, 1883, p. 100). S. H. Parker expressed his frustration that Western Australia was still being denied its proper constitutional control of expenditure despite possessing both a representative government and the *Audit Act 1881*. This failure "to put an end to illegal expenditure", he claimed, was clear proof of the need for responsible government and he moved for the entire *Excess Bill 1882* to be rejected (WA, LC, July 30, 1883, p. 100). The Colonial Secretary explained that the expenditure in question had been incurred in the three months prior to the *Audit Act 1881* coming into force and the subsequent appointment of the Committee of Advice. There was considerable debate on the motion for rejecting the *Excess Bill 1882* but it was ultimately defeated. Parker then moved for the *Excess Bill 1882* to be amended by excising the specific items that had been spent without consultation, and spoke at length regarding the necessity of the government adhering strictly to the provisions of the *Audit Act 1881* (WA, LC, August 1, 1883, pp. 118-126). Having made the constitutional point, Parker then withdrew this second motion and the *Excess Bill 1882* was passed.

By 1884, matters regarding excess expenditure appeared to be operating much more effectively. The *Excess Bill 1883* presented to the Legislative Council in mid-1884 equated to just one per cent of the total appropriations for 1883 (see Figure 7.1, Chapter 7, and Appendix 8). Indeed, the Colonial Secretary advised the Legislative Council that the sum involved was equivalent to less than one per cent of the revenue, that every item had been before the Committee of Advice appointed under the *Audit Act 1881* and that the Committee's minute book was "on the table, and subject to the scrutiny of any hon. member" (WA, LC, July 21, 1884, p. 28). Given the evident care and attention that had been provided to ensuring the proper

procedures were followed, the subsequent passage of the *Excess Bill 1883* progressed smoothly.

9.6.2 Control of loan money

The Legislative Council sought to gain the same control over the expenditure of loan funds as it possessed in respect to appropriations. The *Loan Bill 1881* was presented to the Legislative Council in March 1881 and an attempt was made to insert an additional clause requiring funds raised under the loan to "be annually submitted to the Council for their approval and confirmation" (WA, LC, March 30, 1881, p. 111). There was lengthy argument over its inclusion. Eventually the Legislative Council agreed to omit the clause when Governor Robinson promised to implement a separate Bill to provide "that control over loan expenditure which you desire, without at the same time paralysing the action of the Government, and causing public inconvenience and delay" (WA, LC, April 5, 1881, p. 130). In August 1881, Governor Robinson recommended implementing a process of annually tabling loan estimates, as practised in South Australia. Lee Steere provided additional information regarding the practice undertaken in the other colonies, sourced from the recently tabled Report of the Controller and Auditor General in New Zealand (Fitzgerald, 1881).⁸⁴ The Legislative Council readily agreed to the proposal and requested Robinson to introduce legislation that would ensure the practice continued (WA, LC, August 31, 1881, p. 361-363).

In late September 1882, another Loan Bill was presented to the Legislative Council and Lee Steere moved to include a clause almost identical to that of the previous year. He reminded the Legislative Council of the events in 1881 and pointed out the promised separate measure providing Legislative control over loan funds had not yet been introduced (WA, LC, September 19, 1882, p. 413). The amendment was defeated. Lee Steere promptly introduced a *Loan Control Bill 1882* and an Address to the Governor, requesting him to inform the Secretary of State that the Legislative Council had found it necessary to pass the new legislation as "it possesses no control

⁸⁴ The Report did strongly criticise the practice of excess spending with retrospective legislative approval, considering it diminished Parliamentary control over public finances as "a Ministry must but be exceptionally weak which fails to obtain the necessary sanction to past expenditures" (Fitzgerald, 1881, p. 156).

over the expenditure of Public Monies raised by Loan" (WA, LC, September 23, 1882, pp. 467-468). Further, the Address sought clarification from the Secretary of State that "all monies paid into the Treasury, whether the proceeds of loans or otherwise, should be considered as public monies" and, thus, should

be issued and applied in accordance with, and subject to the provisions of *The Audit Act, 1881*, that being the only statutory enactment which at present gives the Legislature any control over the expenditure of Public Moneys; there being some doubt whether the Act in question is applicable to moneys raised by Loan. (WA, LC, September 23, 1882, pp. 467-468)

This *Loan Control Bill* passed quickly through Parliament and was reserved by Governor Robinson for the Secretary of State, becoming 46 Vic., No. 25—*Loan Control Act 1882* (WA). The relatively smooth passage of this new legislation was quite different to the turmoil produced with the audit legislation, demonstrating the new power of the Legislative Council over Executive expenditure. Loan Estimates bills were presented to the Legislative Council in subsequent years.

A further example of the increased Legislative control over expenditure post-1880 occurred in August 1883. Elected representative Thomas Carey noticed that three clerks in the Survey Department had been placed "under the head of 'wages and expenses', instead of appearing upon the clerical staff; and the same incongruities were apparent in other portions of the Estimates" (WA, LC, September 23, 1882, pp. 467-468). Carey then moved a resolution that "the Estimates for each department of the public service, for 1884, and in future years, shall be so framed that each item will appear under its proper heading" (WA, LC, September 23, 1882, pp. 467-468). The Colonial Secretary assured Carey that the problem would be resolved in this and in future Estimates, and suggested that Carey might, therefore, withdraw the motion. Carey's refusal was simply: "It's a very innocent little motion, and I see no necessity for withdrawing it. I think we ought to know what we are voting money for" (WA, LC, September 23, 1882, pp. 467-468). The message was clear. Elected members did not intend to cede any of their hard fought-for right to the "power of the purse" and the motion passed without further comment.

9.7 THE AUDIT ACT 1891 (WA): RESPONSIBLE GOVERNMENT

Western Australia finally gained responsible government in October 1890, following a successful motion brought in the Legislative Council in July 1887, a draft constitution bill considered in 1888 and a public election in January 1889 (de Garis, 1981b). The provisions of the enabling legislation, 52 Vic., no. 23—*Constitution Act 1889* (WA), implemented the requirements of the *Australian Constitutions Act 1850* (Imp.) and established a bicameral Parliament (Lumb, 1991). Sections 64 and 65 empowered the Legislature to appropriate funds from the consolidated revenue for the public service, subject to review and audit as per the *Audit Act 1881*. Further, sections 71 and 74 vested the appointment to almost all public offices in the Governor in Council, and of officers liable to retire on political grounds in the governor alone, thereby "implicitly" recognising the "doctrine of responsible government" (Lumb, 1991, p. 38).

The first Western Australian Parliamentary session with two Houses met on 30 December 1890 and one of the very first actions was to implement new audit legislation that significantly strengthened the independence of the Auditor General. In his opening speech, on the second sitting day of the session, Governor Robinson advised both Houses that an Audit Bill would "be submitted to you for approval, based on similar Acts in force elsewhere, which will place the Auditor General in a position responsible to the Government and Legislature" (WA, LC, January 20, 1891, p. 7). It is unlikely that this topic would have received such urgency and focus had it not been for the events of 1880 and 1881.

The audit legislation (54 Vic., No. 12—*The Audit Act 1891* (WA): *An Act to amend the Law relating to the Receipt, Custody, and Issue of the Public Moneys, the Audit of the Public Accounts, and the Protection and Recovery of the Public Property*) was modelled on legislation enacted in other Australian colonies and, in all respects except the salary provisions for the Auditor General, adhered to "the general colonial model for audit legislation" (Di Francesco, 1999, p. 54). The Auditor General of Western Australia held office during good behaviour and removal was only possible on the request of both Houses of Parliament, although the governor could suspend the Auditor General for inability or misbehaviour and remove from office with the

agreement of the Legislature. The Auditor General was excluded from membership of the Parliament and the Executive Council, provided an annual report to Parliament directly, not via the Treasurer, and could make recommendations in that annual report "upon all matters relating to the Public Accounts" (*Audit Act 1891*, s. 41). The new legislation also repealed both the original *Audit Act 1881* and the *Loan Control Act 1882*. It abolished the Finance Committee implemented under the *Audit Act 1881*, thereby placing "all the responsibility connected with the expenditure of the public moneys on the shoulders of the Ministry, or the Government of the day" (WA, LA, February 6, 1891, p. 168).

In regards to expenditure above the agreed appropriations, the Bill originally did not provide for the Auditor General to consider if the moneys payable were legally available and applicable to the proposed purposes. When that omission was pointed out during the second reading, and justified as being included in Audit Acts of other jurisdictions, new clauses providing that check (sections 10 and 11) were added in during the Select Committee stage (Report WAPP 1890/91 no. A2). The commitment of the Executive and the Parliament to legislative control of public expenditure is again evident in the lack of comment made on the Bill or the amendments in either House, and in the prompt assent by Governor Robinson on 26 February 1891 (WA, LC, February 6, 1891, p. 442).

The local press was pleased about the inclusion in the *Audit Act 1891* of "a really valuable clause" ensuring that "all proposals for large public works should be open to the unfettered consideration of both Houses of Parliament...in the shape of special estimates" ((1891, February 21). *The West Australian*, p. 3). This clause was recognised as a clear "victory" for the Legislative Council as it created a precedent ensuring "that no loan monies shall be expended, except in works of very minor importance, without the sanction of the Council first being obtained" ((1891, February 28). *The Loan. Victorian Express* (Geraldton), p. 4). Otherwise there was little newspaper coverage beyond noting that it was one of four "highly important bills" passed in the session (the others being the *Loan Bill*, *Scab Act Amendment Bill* and the *South Western Railway Bill*), "whilst the Estimates were got through with wonderful celerity" (Le Flaneur. (1891, February 28). Men and Things. *The Daily News*, p. 3).

Later articles indicate the new *Audit Act 1891* operated effectively. For example, in April 1891 the government was congratulated on the prompt publication of the quarterly returns of revenue and expenditure, proving that "a good system is in force and that it is well carried out" (although it was the Treasury that received the credit) ((1891, April 17). General News. *The Inquirer and Commercial News*, p. 5). The legislation also operated effectively in preventing excess expenditure. In August 1891 it was reported that the government had been prevented from agreeing to a request for substantial funding from the City Council because of the *Audit Act 1891*, even if it had been willing "to take the responsibility of anticipating a vote of Parliament" ((1891, August 11). The Perth Municipality. *The Daily News*, p. 3). Similarly, in October 1891, an editorial in *The West Australian* commented that although large sums appeared to be accumulating in the Treasury, the government could no longer spend in "advance what money it may please them, and afterwards as a matter of course to make it straight with Parliament":

The Ministry has no more power to expend this money than has any one of their anonymous assailants. For what they receive from the country they must account to Parliament, and before they spend it they must first apply for and obtain legislative sanction. ((1891, October 30). *The West Australian*, p. 4)

A further effect of implementing the *Audit Act 1891* was that it provided an opportunity for the government to remove the current Auditor General, Courthope, arguing that they wished him to "be relieved from the onerous duties—more onerous than under the former Government—which would devolve upon the Auditor General under the Audit Act" (WA, LA, February 20, 1891, p. 347). Courthope was able to turn this pressure to his advantage by negotiating for an increased pension in return for tendering his resignation.⁸⁵ The decision about providing the pension was put to the Legislative Assembly during the debate on Supplementary Estimates for 1891:

However, members had it entirely in their own hands. If they did not sanction this increase of pension, this officer would be appointed to the new position; but, if they were prepared to vote this amount, then the office would be reorganised and placed under the control of another officer. (WA, LA, February 20, 1891, p. 347)

⁸⁵ It was noted earlier that Courthope had commenced in the Audit Office as a clerk in mid-1847, and appointed Auditor General in 1872.

The item was agreed to and on 1 August 1891 Frederick Spencer commenced as Auditor General. There was little press comment on the manner of Courthope's retirement after over four decades in the Audit Office, or concerning the appointment of Spencer, indicating a general public and political acceptance of the transition.

As noted above, the *Audit Act 1891* empowered the Auditor General to report directly to Parliament. This provision was one of the most powerful tools for the Parliament in their oversight of public finances and an opportunity to use that tool was not long in arriving. The second annual report of the Auditor General, submitted to Parliament on 23 May 1893, contained allegations about the way that government stores and goods were being managed in the Railways and Works Department. The Legislative Assembly reacted to this advice by appointing a Select Committee to inquire into the charges (WA, LA, July 13, 1893, pp. 68-72). This Committee's Report was extensive and ultimately agreed that the Auditor General's recommendations for improving management processes should be implemented (Report WAPP 1893 no. A27).

In April the following year, Governor Robinson appointed a Royal Commission to inquire into the organisation of the entire public service. The *First Progress Report of the Civil Service Commission*, tabled 2 October 1894, included the results of the attention paid to the Auditor General's Department which was identified as being "under the immediate control of the Colonial Secretary" (Report WAPP 1894 no. 21, p. iii). The Commission found that "the Auditor General was a conscientious, zealous, and painstaking officer, and that he had a fairly efficient staff of subordinates" (Report WAPP 1894 no. 21, p. iv). Despite the Audit Department being under the Colonial Secretary's control, the extensive evidence provided by the Auditor General demonstrated a very clear understanding of the independence provided by the *Audit Act 1891* (WA), with statements such as the following:

- "I am a Parliamentary officer, and my duty lies in administering the law as I find it....If Parliament is not satisfied with the way things are done, it does not matter whether I am satisfied or not" (Report WAPP 1894 no. 21, p. 8).

- "So long as I have the honour to be Auditor General, I shall strive to protect the interest of the colonial chest, which is also the interest of the public" (Report WAPP 1894 no. 21, p. 14).
- "The Estimates are the basis of accounts, and as soon as the Estimates are passed by Parliament they are law, and no expenditure can take place unless covered by specific votes of the Legislature or special Executive Council approval, to be subsequently ratified by Parliament" (Report WAPP 1894 no. 21, p. 14).
- "The law provides that what is sanctioned by the Governor-in-Council must be sanctioned by the Auditor General" (Report WAPP 1894 no. 21, p. 41).

9.8 CHAPTER SUMMARY

The *Audit Act 1891* remained in operation until the federation of the Australian colonies, when the creation of the State of Western Australia in 1901 required new financial management legislation. The *Audit Act 1904* (WA) repealed the *Audit Act 1891* and remained in operation, with various amendments, for over 80 years.⁸⁶ The second reading debates for this legislation clearly expressed the intent to further strengthen Parliamentary control of finances and increase Auditor General independence from the Executive. The Colonial Treasurer declared that in drafting the new legislation he had "striven to lose sight of the fact" that "it is generally supposed that the object of the Treasurer is to hoodwink the Auditor General", instead acknowledging "the Audit Act...should be made so that it will be a protection to the citizens for all time" and that it should include protection from "interference on the part of Ministers":

I have striven to give to Parliament a greater degree of control than it has had under the existing Act...to give Parliament as far as possible every power in the control of the public purse.

We have taken away no jot or tittle of the Auditor General's power. On the contrary, we have given him the fullest powers, so that he

⁸⁶ The *Audit Act 1904* was amended by subsequent *Audit Act Amendment Acts* in 1927, 1957, 1965, 1966, 1978 and 1984.

may carry out his duties absolutely to the best of his ability. He is still a servant of Parliament; he is still responsible to Parliament; he still has the right, which he has frequently exercised, to report to Parliament any differences of opinion which may arise between him and the Treasurer, who is practically responsible after all for the custody and the expenditure of the moneys of the State (WA, LA, August 6, 1903, pp. 396-400).

Eventually the *Audit Act 1904* was repealed by the *Financial Administration and Audit Act 1985* (WA), which was itself replaced by the *Auditor General Act 2006* (WA) and which continued to strengthen the independence of the Auditor General. Today, the Parliament of Western Australia has declared:

The *Auditor General Act 2006* is ranked second out of the legislation in 10 jurisdictions—the Australian states and territories, the Commonwealth and New Zealand—for safeguarding the independence of the Auditor General due to its wide mandate and discretion. (WA, LC, August 25, 2016, p. 5238)

This chapter has examined the evidence demonstrating the ongoing Parliamentary struggles in Western Australia for increased Legislative control over public expenditure from 1881 to 1904. The immediate political actions following the *Audit Bill 1880*, in both Western Australia and in Britain, were shown to have confirmed the Legislature's constitutional authority over public finance and the importance of Auditor General independence in maintaining that control. The effectiveness in reducing Excess expenditure, and the relative ease with which subsequent controls were achieved, was argued as being at least partly the result of the Parliamentary efforts in 1880. The passage of subsequent audit legislation in Western Australia shows that efforts to strengthen these controls continued into the twenty-first century.

CHAPTER 10 CONCLUSION

10.1 INTRODUCTION

Nineteenth-century British and colonial Australian Parliaments were able to introduce legislation transforming public sector audit from an administrative function of Executive government to an independent officer of Parliament. Public sector audit became a primary mechanism for strengthening the constitutional powers of Parliaments over Executive government expenditure.

Focusing on the transition of the Auditor General's role in the nineteenth century British colony of Western Australia (the Swan River colony), this thesis contributes to the understanding of Auditor General independence by identifying why and how the Parliamentary struggle to gain an independent Auditor General was so hard fought and took so long. It was understood as a transfer of political power that increased government accountability requirements. How and why this transition occurred provides precedent—an essential guide in Australia's partially written constitution—firmly locating independent public sector audit as a core principle in Westminster-based constitutional arrangements.

Through the analysis of new data identified in archival material, this thesis also provides what appears to be the first comprehensive research regarding the development of the Auditor General's place in Western Australian government and its importance in relation to democratic accountability and public sector audit.

10.2 RESEARCH QUESTIONS AND MOTIVATIONS

The function and significance of the modern role of the Auditor General in Westminster-based democracies, as discussed in Chapter 1, provides the starting point of the research scope and generated the following questions of this thesis.

1. Why did the principles of independent public sector audit come to be understood in the nineteenth century as a key accountability mechanism for democratic government?

2. How were those principles implemented in regard to the Auditor General's role in Western Australia between 1829 and 1891?

The core purpose in raising these questions is to assist in understanding the importance of, and thereby strengthening, Auditor General independence. Yet these questions about how and why the role of the Auditor General came to be acknowledged as a significant accountability mechanism in democratic governance are identified in Chapter 2 as under-researched areas in the existing literature on public sector audit history, despite their value in providing constitutional precedent.

A research paradigm and theoretical framework for addressing this oversight in the literature (discussed in Chapter 3) justify the adoption of a qualitative and inductive intellectual history in the theoretical tradition of the Sussex School, under-pinned by Westminster constitutional theory. A narrative approach is used to reconstruct the socio-political context of historical events. This effectively positions the historical narrative of the transformation of the Auditor General role in its own time and also enables the incorporation of a range of contextual prisms—economic, social, cultural and political factors—to increase understanding. The initial data collection phase uses archival research methods to create an extensive database preserving chronological connections; the second phase analyses the data to verify, triangulate and generate the findings that are synthesised as the historical narrative in the subsequent chapters.

Chapters 4, 5 and 6 provide the contextual background for answering the question: why the concept of Auditor General independence became understood as a fundamental accountability mechanism. The evidence demonstrates the increasing understanding of the British Parliament that independent audit was an effective tool for controlling Executive government expenditure and, thereby, for strengthening the historical constitutional Parliamentary "power of the purse". In Chapter 4, the data are synthesised into a historical narrative of the ongoing power conflicts between the British Parliament and Executive government from the twelfth to nineteenth centuries for control of public finance. The contextual administrative framework in which British colonies operated in the nineteenth century, considered in Chapter 5, demonstrates the strengths and limitations of mechanisms used by the British

Parliament and Colonial Office to oversee and control colonial finances. Chapter 6 analyses the applications of these mechanisms in the first British colony in Australia, New South Wales, in the decades immediately prior to the settlement of the Swan River colony in Western Australia.

The operation of public sector audit in colonial Western Australia, and the constitutional battle to implement effective legislative control of government finances, is presented as a chronological narrative in Chapters 7-9. This case study answers the second thesis question: how the principles of Auditor General independence were implemented in the nineteenth century, demonstrating that it was a genuine political conflict over the transfer of power. The synthesised data informing the narrative clearly reveal that colonists increasingly understood the control of Executive government expenditure to be fundamentally linked to the constitutional status of the colony and the role of the Auditor General. Indeed, this theme occurs repeatedly from the very first year of operation of the colony's Parliamentary body (1832) and throughout the many decades before obtaining a fully responsible government in 1890. In particular, the political fight for providing legislated independence for the Auditor General in 1880 illustrates the intertwining of constitutional and public sector audit issues (Chapter 8). The effectiveness of public sector audit legislation in providing a check on Executive expenditure and the necessity of it being available to Parliament is confirmed by data found in excess bills as a proportion of approved appropriations over time.

10.3 IMPLICATIONS

It was posited in Chapter One that addressing the two primary research questions would enhance our understanding by: (1) identifying major themes in both Western Australian public sector audit practice and in Westminster constitutional development; (2) synthesising a new chronological and contextual narrative on the topic; and (3) generating a conceptual framework describing public sector audit independence. Summaries of these three areas of understanding, and their implications for researchers, are provided below.

10.3.1 Major themes

This contextual historical analysis has clearly identified some new and important themes in both Western Australian public sector audit practice and in Westminster constitutional development. Those themes include the finding that obtaining Auditor General independence was a difficult process as it required a transfer of power from the Executive to the Parliament. The legislative provision entailed multiple stages of constitutional change in Britain (Chapter 4) and its Australian colonies (Chapters 6-9). Further, the transition was characterised by political resistance from the Executive at every stage, even though the fundamental constitutional right of the legislature to control public expenditure was acknowledged and alleged to be upheld by all parties involved.

Ultimately, the connection of public sector audit with legislative power is incontestable (as discussed in Chapter 4 and demonstrated in the Western Australian historical context in Chapters 7-9). The implication is clear. Having fought so hard to obtain an independent Auditor General, Parliaments in a Westminster-based system must continue to support that independence if they wish to maintain the constitutional right of financial control.

10.3.2 The new narrative

The case study presented in Chapters 7-9 synthesised a new chronological and contextual narrative on the origins of Auditor General independence. A synopsis of this narrative is provided below.

The management of government finances in the first British settlements in Australia was compromised, principally due to deficiencies in the instructions provided by Britain to the local government, some poor choices of key personnel and the unavoidable delays in account processing and checking due to the distances between settlements and Britain. Serious problems in financial administration occurred as a consequence. Clerical errors and even overt corruption were able to remain undetected for considerable periods. In response, various measures were gradually implemented by Britain throughout the first half of the nineteenth century to improve

its colonial financial management system. These measures included issuing comprehensive official instructions to governors, treasurers, collectors of revenue and commissariat officers, appointing colonial auditors to provide stronger local checks prior to submitting accounts to Britain, and strengthening the control already provided by cultural concepts of personal honour and integrity by enforcing the provision of security bonds and the requirement to personally repay incorrectly expended government funds.

The early administrative system implemented in the British colony in Western Australia demonstrated reasonably sound financial management practices throughout the 1830s, largely due to the presence of clear and detailed instructions and transparent processes of cross-checking that included a local audit. Nevertheless, sound management of public finances by the colonial government was increasingly regarded as unsatisfactory by colonists. Even though strong local auditing controls were in place, the absence of a system of direct Parliamentary representation was held to be in breach of constitutional rights established over centuries of British history, notably Magna Carta and the Glorious Revolution. Western Australian colonists politically agitated for six decades to obtain representation in the local legislature and for responsible government, arguing that this was the rightful and effective way to obtain control over Executive expenditure.

These demands were only answered slowly and incrementally by the Imperial and local Executive government. Non-representative government was in place until 1869, with only a limited non-official (nominee) membership provided from 1839 until 1869. Appointing governor-nominated men as members of the Legislative Council was implemented to provide some level of control over Executive proposals for taxation and expenditure and was strengthened by Imperial requirements for the local approval of annual estimates of expenditure (appropriations) and for regular publication of audited income and expenditure statements. However, with the balance of voting power in Parliament held firmly by the Executive, there was little genuine control. Most notably, the practice of presenting the Legislative Council with Excess bills seeking the retrospective approval of expenditure became a regular occurrence. Consecutive governors continued to express their understanding that expenditure without Legislative Council approval was unconstitutional and that good

financial management was an essential function of government. Yet analysis of annual appropriation bills in Western Australia revealed that between 1852 and 1880, the Legislative Council was asked each year to retrospectively approve expenditure amounting to between 10% and 15% of the already authorised annual appropriation. In short, gaining nominee representation in the Legislative Council in 1839 was not sufficient to prevent the Executive from over-spending the approved appropriations.

The growing concerns in Western Australia over government expenditure were a direct influence in popular demands for a representative, elected legislature. Finally achieved in 1870, in the first few years of representative government it did appear the Legislative Council would at last be able to control Executive expenditure. The evidence, however, shows that that expectation was short-lived. Calls for a fully responsible form of government were actively blocked by local and Imperial authorities. Therefore, elected representatives worked throughout the 1870s to implement other mechanisms in the Legislative Council for obtaining the desired financial control, including resolutions clarifying financial rights and responsibilities, Select Committees, Commissions of government, increases in the numbers of elected representatives and alterations in administrative processes. None proved effective in obtaining the constitutional legislative control. Lip service continued to be given from the Executive agreeing with the principle that public money could not be expended without the approval of the legislature, and no cases of impropriety or corruption were identified. Yet annual government expenditure continued to exceed the appropriated sums, incorrect statements of revenue and expenditure continued to be presented (and then later adjusted), clear pictures of actual financial positions and debts were not possible and conflict between the government and elected representatives in the Legislative Council became more intense.

In 1880, elected representatives combined efforts to introduce and pass the *Audit Bill 1880* (WA), including two clauses to place the Auditor General as an officer of Parliament, and which was intended to place a limit on Executive expenditure of funds not included in annual appropriations. The passage of the Bill was fought against by the Executive every step of the way, with a range of arguments and delaying tactics. The Governor refused to provide assent and recommended the Secretary of State for the Colonies to also refuse assent, arguing that existing

processes and controls were sufficient. The Secretary of State affirmed that, in Western Australia's representative government constitution, appointing the Auditor General as an independent officer of Parliament would conflict with the governor's constitutional power to appoint and remove all public officers and was not permissible. However, a lack of comment about the ongoing over-expenditure above the approved appropriations prompted a question to be asked in the House of Commons in May 1881, and the Secretary of State subsequently issued clear statements supporting the Legislative Council's right and responsibility to control public expenditure.

This Imperial support, combined with the damning report of a government Commission that conclusively found the existing financial management arrangements were not satisfactory, generated the implementation of the *Audit Act 1881* (WA). Presented by the Governor, this legislation did not include an independent Auditor General but it did provide for a Finance Committee of Advice as a mechanism for ensuring legislative approval of expenditure (resisted by government members) and much stronger regulations for administrative management. Thereafter, the proportion of over-expenditure to approved appropriations dramatically decreased. Elected representatives continued to face opposition in applying their constitutional right to approve expenditure, such as in regard to the issue of loan funds, but increased legislative control over expenditure post-1880 is evident.

From the late 1880s it became clear that Western Australia would be granted responsible government. This formally occurred in October 1890 with the passage of the *Constitution Act 1889* (WA). Implementing new audit legislation that significantly strengthened the independence of the Auditor General was one of the very first actions undertaken by the first Parliament with two Houses (the *Audit Act 1891* (WA)). It is unlikely that such urgency and focus on the part of the Executive would have occurred without the events of 1880 and 1881 and the subsequent watchful actions of the elected representatives. The independence of the Auditor General was incrementally strengthened and the powers extended from then on, although literature examining government actions since then has shown that the principles must be constantly defended.

10.3.3 The new conceptual framework

The new narrative describing the implementation of Auditor General independence in Western Australia forms the basis of the conceptual framework about its constitutional origins. Gaining that independence was not a smooth process of legislative evolution. The Executive and the Parliament did not work together to ensure the best possible financial management outcomes in accordance with British historical precedent. Even though all parties appear to have genuinely believed they were working for the public good and, as noted before, there is no evidence of wilful misconduct or corruption, there was fundamental conflict over who held financial control. The constitutional principle was actively tested and Parliamentary attempts to strengthen legislative control were aggressively blocked despite the historical precedent. Each step increasing legislative financial control was achieved only after much effort: comprehensive financial management instructions that clearly established responsibilities; nominee representation; representative government; responsible government; an independent Auditor General.

The fact that this conflict has been overlooked as an area of research to date signifies that it is at risk of being forgotten. There is a danger in assuming the historical transition to Auditor General independence happened smoothly, as any diminishment of Auditor General independence may not be recognised as a loss of hard-fought for constitutional privilege, or even acknowledged as a loss of power. The implication is that Parliaments must remember they overcame constant resistance to ensure their legitimate right to hold the Executive government accountable for financial management.

10.4 LIMITATIONS

The principal limitation in this thesis was the necessary restriction to one jurisdiction in a specific time frame (colonial Western Australia), although some brief references were made to relevant events in other colonies in Australia and non-Australian jurisdictions including North America, Canada and New Zealand. Within this tight constraint, an adequate contextual background to the narrative of events was attempted by analysing the history of public sector audit in both Britain's constitution

and colonial administration and in the foundational years of government administration in the original British colony in Australia, New South Wales. While it is acknowledged that this thesis provides only a very small window into the much larger fields of public sector audit history, public administration and the Parliamentary and constitutional histories of Britain and Australia, the findings are informative and may prove to be useful for researchers in these and other areas.

The search for answers to the research questions was initially limited to the history of public sector audit and it was only after identifying connections with other fields, particularly constitutional law, that the importance of the findings was fully identified. The linkage of these otherwise diverse fields via analysis of just one common factor—public sector audit—has revealed new information not found in other research in these fields, and extending the research into other physical and legislative jurisdictions would further strengthen the findings.

The historical nature of this thesis generated further restrictions, in that available approaches were inevitably limited. Other qualitative research methods, such as interviews, questionnaires or direct observation, were not possible. Additional limitations were generated by the amount of available data. The abundant sources and accessibility of stable, permanent data were disadvantages in the sense that archival research in the available time frame could not possibly claim to have identified all potential data pertinent to the research. It is also self-evident that the data were generated not for the purposes of this thesis but for their original administrative and/or political aims, and that the viewpoints expressed in the data were not representative of the general population but of a small cohort largely comprised of literate, British, socially and politically elite men. These aspects of the data in themselves, however, did provide evidence of the era being studied—a key principle of the Sussex School approach of positioning the historical narrative in its own time.

The design strategy of capturing identified data in a chronological database proved to be an effective method for managing the substantial collection in later analysis. The risks of observer bias and interpreter errors were minimised by the size of the database and careful transcription of data without amendment. The wide range of

sources provided multiplicities of available viewpoints that assisted in assuring data confidence and triangulation. Further, constant assessment and re-assessment of data validity and relevance ensured broad coverage and minimal bias.

10.5 POSSIBLE AREAS FOR FUTURE RESEARCH

It is hoped that scholars will find this thesis useful in focussing future research on this important but generally overlooked area of interest: the constitutional significance of the origins of Auditor General independence to the present state of government accountability. The new narrative description of the development of audit independence in a Westminster jurisdiction provides a foundational understanding that may assist improvements in policy and legislative development, while adding to Australian and international discussion around this topic.

As noted earlier, the findings here are limited to the Westminster-style democracies of Australia and Britain. An obvious area of future research would be to extend the analysis of the origins of Auditor General independence into other physical and legislative jurisdictions. There are more than 190 full members of INTOSAI, from Afghanistan and Albania to Yemen and Zimbabwe. Analysing the connection of public sector audit with political power in some of these areas, and comparing the findings with those identified here, may further clarify the constitutional place of the independent Auditor General.

Parliaments often have a number of independent officers to assist them in their oversight of government accountability, in addition to the Auditor General. Ombudsmen, electoral commissioners and information/privacy commissioners are frequent examples. Analysis of the origins of these independent officers using the research model presented here could assist in protecting and strengthening the independence of their various positions.

Further, the research here has examined the inter-relationships of independent public sector audit with political and constitutional histories. The combination of these otherwise separate areas of intellectual study has proven fertile in terms of generating

new insights; application of the research methodology demonstrated here to other fields of study may be similarly fruitful.

Another intriguing area of interest that could only be touched upon relatively briefly was the apparent connection between the strengthening of Parliament's ability to take control of public finances and the extension of franchise privileges. The successful implementation of independent Auditors General in Britain and Australia appears to have occurred in connection with Parliaments becoming more truly representative of the general population. A similar qualitative and inductive history analysing why the public believed gaining political representation would enhance their ability to control government expenditure may reveal insights into shifts in voter understandings on other constitutional areas, for example, and perhaps a better understanding of the modern trend to voter disengagement.

10.6 CONCLUDING REMARKS

The new narrative provided here gives an answer as to why the principles of independent public sector audit came to be recognised in the nineteenth century as a key accountability mechanism for democratic governance. It has been demonstrated that the implementation of Auditor General independence from Executive government in the nineteenth century was largely the result of a growing understanding by colonists and members of Parliament that this could be an effective strategy for strengthening Parliament's historical constitutional "power of the purse". Appointing the Colonial Auditor to verify, on behalf of the Parliament, that Executive government expenditure was in accordance with approved appropriations exercised the Parliamentary constitutional role as a guardian of public finance.

It was noted in Chapter One that having an Auditor General with independence from the Executive government is a central proposition of modern public sector audit and government accountability. The findings here are the result of significant and comprehensive research regarding the origins of the Auditor General's place in Western Australian government and its importance in relation to democratic accountability. This history is valuable for educators and policy-makers alike in terms of current public sector audit practice and government accountability. Much

more than a rectification of an absence in provincial historiography, this thesis provides a new narrative description of the development of audit independence in a Westminster-based jurisdiction—a foundational understanding that may inform improvements in policy and legislative development and which substantially adds to Australian and international discussion around the topic of the constitutional powers of Parliaments over Executive government expenditure and the necessity of protecting the independent Auditor General.

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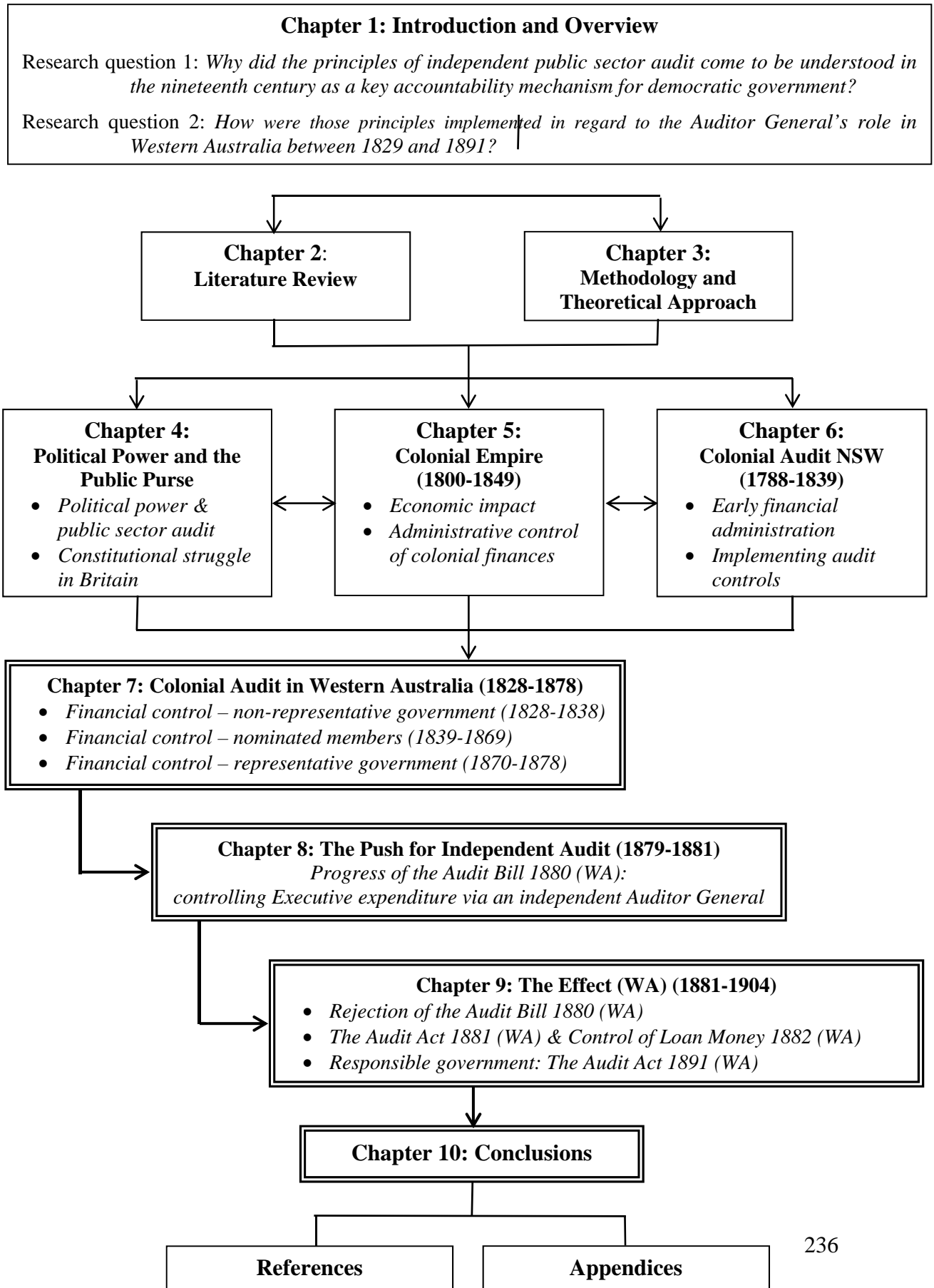
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APPENDICES

APPENDIX 1

THESIS SCHEMATIC

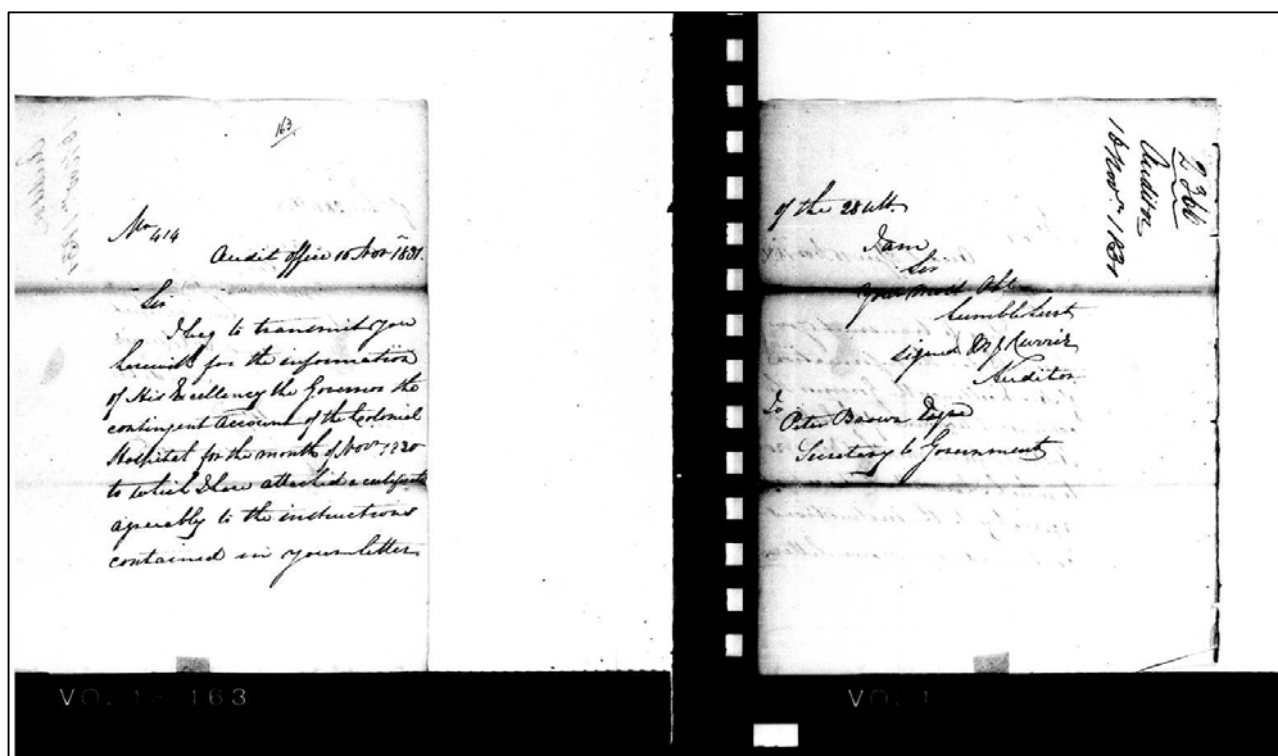


APPENDIX 2

EXAMPLES OF DOCUMENT TRANSCRIPTION

The following figures provide examples of documents identified by archival research as containing potentially relevant data, and how they were transcribed into the thesis database.

Example 1(a). Datum item: Microfilmed correspondence.



Note. Example 1(a). Datum item: Microfilmed correspondence.
Captured by digital scanning and saving as a PDF file.

Example 1(b). Datum item: Microfilmed correspondence, after transcription and entry into database.

16 Nov 1831	<p>To Peter Brown Esqr, Secretary to Government Audit Office, 16 Nov 1831</p> <p>Sir, I beg to transmit you herewith for the information of His Excellency the Governor the contingent Account of the Colonial Hospital for the month of Nov 1830 to which I have attached a certificate agreeably to the instructions contained in your letter of the 28 ult.</p> <p>I am, Sir, your most obedt, humble Servt, M J Currie, Auditor.</p>	<p>Currie to Brown, 16 November 1831. CSO, SROWA, Cons 36, v.18, no. 163</p>
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THE PERTH GAZETTE

AND WESTERN AUSTRALIAN JOURNAL.

His Honour the Lieutenant Governor has thought proper to direct, that all public communications, which may appear in the *Perth Gazette* and *Western Australian Journal*, signed with any Official Signature, are to be considered as Official communications made to those persons to whom they may relate.

NEW SERIES

PETER BROWN, COLONIAL SECRETARY

VOLUME II.]

SATURDAY, JANUARY 25, 1834.

[NUMBER 56]

GOVERNMENT NOTICE.
Colonial Secretary's Office, Perth, January 23, 1834.

NOTICE is hereby given, that in future all Claims and Demands on the Colonial Government, which are not lodged for Examination with the Auditor on or before the 5th of each Month, will not be ordered for Payment till the month following.

By His Honour's command.
PETER BROWN,
Colonial Secretary.

GOVERNMENT NOTICE
Colonial Secretary's Office, Perth, January 23, 1834.

CONSIDERABLE Inconvenience having been experienced from the practice of addressing Letters, &c., on Service to the Lieutenant Governor, His Honor is pleased to direct, that in future all Applications, Letters, or Reports, which may relate to Public Business, or to any General Matter, shall be made invariably through the Colonial Secretary

By His Honor's command.
PETER BROWN,
Colonial Secretary.

GOVERNMENT NOTICE.
Colonial Secretary's Office, Perth, January 23, 1834.

NOTICE is hereby given, That Robert Wall has applied at this Office for permission to leave the Colony.

By His Honor's command.
PETER BROWN, *Colonial Secretary.*

GOVERNMENT NOTICE.
Survey Office, Western Australia, January 23, 1834.

HIS Honor the Lieutenant Governor has granted the following Town Allotments:—

PERTH.
V8. Richard Smith
Y27. Louis de Mayo
A13. Edward G. Collins
GUILDFORD.
125. Henry Gomis
FREMANTLE.
301. Samuel Henry Moore

The assignments of the undermentioned Building Allotments in Fremantle will be delivered on applying to the Civil Commissioner there, and paying that officer the amount chargeable for the corner boundary stakes:—

155. James Purkis
351. Juliet Elizabeth Thurlie
374. Christian Robertson.
J. S. ROE,
Surveyor-General.

SURVEY DEPARTMENT.
PERTH, JANUARY 13, 1834.

THE Perth building Allotment F 11 having been resigned to the Crown, it will be granted to another Applicant, should no claim against it be presented at this Office on or before the 11th Proximo.

J. S. ROE,
Surveyor-General.

COMMISSARIAT OFFICE,
PERTH, JANUARY 24, 1834

SEALED TENDERS in Triplicate will be received at this Office on Tuesday the 28th Instant, at 12 o'clock, from such Person or Persons who may be willing to Supply His Majesty's Troops, stationed at Fremantle, with Fire Wood.

The Quantity that will be required daily will be about Two hundred weight.

Any Information that may be required, can be obtained by application at this Office.

JOHN LEWIS,
Dep. Asst. Com. Gen.

COMMISSARIAT OFFICE,
PERTH, JANUARY 24, 1834

SEALED TENDERS in Triplicate will be received at this Office at 12 o'clock on Friday the 31st Instant, from such Person or Persons who may be willing to make a Set of STOCKS (similar to those at Perth) for the use of the Settlement of Augusta; the same to be completely furnished with Iron plate at the top, and good padlock at the side.

For further particulars, application to be made at this Office.

JOHN LEWIS,
Dep. Asst. Com. Gen.

COMMISSARIAT OFFICE.
PERTH, JANUARY 17, 1834

SEALED TENDERS in Triplicate will be received at this Office on Tuesday the 28th Instant, from such Person or Persons who may be willing to Supply for Three Months Certain (commencing on the 1st of February, 1834.) FRESH MEAT for the use of the Troops stationed as follows:

PERTH,
FREMANTLE,
UPPER SWAN,
KELMSCOTT,
YORK,
MURRAY RIVER.

The Quantity required for each Station will be made known on application at this Office; and it is requested that all persons tendering will attend themselves, or have some person on their behalf, to answer any questions that may be required, otherwise their Tenders will not be attended to. Security must be given for the due Performance of the Contract.

The Price to be stated in figures and words at length, and the Tender to be marked on the Envelope "Tender for Fresh Meat."

JOHN LEWIS,
Dep. Asst. Com. Gen.

MODERN AND ANCIENT DANCING.
(From "CONSTANCE," a new Work.)

This beginning broke the ice, as it were, of that coldness, which the girlish timidity of Constance, and the consciousness of Sir Charles, had established hitherto between them. For the first time, the Baronet saw her in her true colours. The originality of her character, its native honor, the wildness of her spirits when uncontrolled, the yet delicacy of her feelings, broke upon him by degrees; for he possessed a quick discernment of excellence, and that which he had hitherto only imagined her to be, he found her actually to prove. Very difficult did this young couple find it to separate when the dance began, and to stand, like a regiment of soldiers, in two separate lines, gazing at each other whilst an insupportable barrier of form was between them. But in the now disguised country dance, there were innumerable opportunities of little insignificant attentions which are wholly impracticable in the measured step of a quadrille. To lead down the dance with a partner whom you preferred, was sometimes the prelude to an offer at the end of it; in poussette, many kind words in gilt be uttered, and even the separation of hands across was but momentary. But now it is all a system of setting and rigidifying; the gentlemen and the ladies seem afraid to touch one another; they figure away as if they were in the presence of their dancing master, and resign a partner with whom they can have no communication beyond a few syllables, with the same composure as they make a balance. In the happy days of my heroine, it was permitted also, for a lady, after dancing down thirty or forty couples, to take a little breathing time at the bottom of the set with her partner; and here the interrupted converse of the dance was frequently renewed with spirits accelerated, not indeed by the exhilarating exercise by which they each joined.

LONDON POLICE:—MARLBOROUGH STREET.
MAY 10.—A RISING GENIE.—Mike Smith, a ragged young wretch, who, though hardly able to peep over the bar, has been in custody more than a dozen times for petty thefts, was charged by William King, cobler and ginger-beer taster, with having stolen a bottle of ginger beer from his stall.—The prosecutor declared that the neighbourhood of his stall was so infested with young thieves that he found it utterly impossible to turn an honest penny, for if his eyes were off the board for an instant he was sure to discover that a bottle or two had suddenly vanished. On Monday last he happened to cast his eyes where the ginger-beer stood, when he was much surprised to see a bottle move off the board without any person being within sight. Upon looking out of the door the mystery was explained, for there he saw the delinquent making a rapid retreat on all fours, with the ginger-beer (the cork of which had flown out) fizzing out of his breeches-pocket. After a smart chase he overtook him, and then proceeded to examine the contents of his pinafore, which was banded round him. This led to the discovery that the young prisoner had been on a most successful forage for a dinner. He had a piece of pickled pork, a couple of eggs, part of a loaf, and a handsome China basin, all of which he admitted was the result of his morning labours.—The boy having already been remanded for a week, Mr. Dyer, upon learning that his parents were quite unable to keep him from the streets, ordered that he should be detained until some arrangement was made with the parish to which he belonged.—When removed to the lock-up room he amused himself by giving vent to a poetical inspiration in the following admonitory distich, which he scratched on the wall:

Him as prigs wot isn't him,
Wen his cotched vil go to prish.

The following subjects have been selected by the governor, as prize essays, to be adjudged by a select committee of Ceylon Improvement Society. Each successful candidate will be entitled to ten guineas in money, or to a gold medal, at the option of the party.

No. 1. An Essay on the best principle of in-

Note. Example 2(a). Datum item: Newspaper article.
Example of newspaper article retrieved from Trove. Identified data is in article is at top of left-hand column.

Example 2(b). Datum item: Newspaper article, after transcription and entry into database.

25 Jan 1834	<p><i>Government Notice</i> <i>Colonial Secretary's Office, Perth, January 23, 1834.</i> <i>Notice is hereby given, that in future all Claims and Demands on the Colonial Government, which are not lodged for Examination with the Auditor on or before the 5th of each Month, will not be ordered for Payment till the month following.</i> <i>By His Honor's command. Peter Brown, Colonial Secretary.</i></p>	<p>Colonial Secretary's Office. (1833, January 25). Government Notice. <i>Perth Gazette and Western Australian Journal</i>, p. 221</p>
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Example 3. Datum item found in three separate sources, after transcription and entry into database.

7 July 1847	<p><i>Colonial Secretary's Office, Perth, July 7, 1847</i> <i>His Excellency the Governor has been pleased to make the following appointments:</i> <i>Frantz Anthon. Didrich Christian Helmich, Esquire, to be Postmaster General, Perth, and</i> <i>Mr. Edward Lane Courthope, to be Clerk in the Office of the Colonial Auditor.</i> <i>By His Excellency's command,</i> <i>G.F. Moore, Colonial Secretary.</i></p>	<p>Colonial Secretary's Office. (1847, July 10). <i>The Perth Gazette and Western Australian Journal</i>, p. 1; Colonial Secretary's Office. (1847, July 14). <i>Inquirer</i>, p. 2; <i>Government Gazette</i>, 9 July 1847.</p>
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Note. Example 3. Datum item found in three separate sources. Retrieved from Trove ((1847, July 10). *The Perth Gazette and Western Australian Journal*, p. 1; (1847, July 14). *Inquirer*, p. 2; *Government Gazette*, 9 July 1847, n.p.).

APPENDIX 3

KEY BRITISH PARLIAMENTARY ACTIONS 1100-1921

Coding: In terms of Parliamentary attempts to increase its power over the Executive via control of public money, was the action:

- Successful: eg Acts; improved/increased reporting to Parliament; independent auditing; appropriation/expenditure
- Partially successful: eg Committee inquiries and reports recommending increased independence;
- Limited: improved Treasury control of process (but did not increase power of Parliament); or
- Failed: eg: failed bills; legislation that decreases Parliamentary control.

Date	Code	Legislative title	Description
1118	Limited		Formation of the Exchequer.
1215	Success	Magna Carta	Agreed to by King John. Establishes principle of no taxation without representation.
1225	Success	Magna Carta	Parliament grants subsidy to Crown upon condition of Charter confirmation (Constitutional principle).
1236	Partial		Parliament first mentioned in official legal record.
1266	Limited	51 & 52 Hen. III, stat 5.	<i>Dictum of Kenilworth</i> . Collectors of revenue required to account to treasurer in the Exchequer.
1275	Limited	3 Edw. I, c.26	<i>Extortion by Officers of the Crown</i> . No sheriff or minister to take any reward to do their office.
1285	Limited	13 Edw. I, c.11	<i>Accountants Act 1285</i> . Punishment for receivers of revenue, if auditors find them in arrears.
1297	Success	Magna Carta	King re-issues 1225 Charter in return for a new tax being granted (this version remains in statute today).
1311	Success	5 Edw. II	<i>Ordinances of 1311</i> . Revenue paid into Exchequer, not Crown household. Appoints permanent Exchequer auditors.
1322	Failed		<i>Ordinances of 1311</i> repealed, following rebellion (removes restrictions on Crown power).
1340 - 41	Success	14 Edw. III, c.3	<i>Pardon of Crown Debts 1340</i> . Crown permits audit of accounts by Parliamentary committee (in 1340 and 1341).
1377	Success	1 Rich. II, c.5	<i>Officers of the Exchequer 1377</i> . Appoints two officers to receive / disburse war grants. Parliament's right to audit begins to be used regularly.
1404	Success	6 Hen. IV, c.3	<i>First fruits, petitions to the King, etc</i> (cc.1-4). Appoints Commissioners to inquire into Exchequer accounts.
1406	Success		House of Commons appoints auditors and demands regular accounts.
1407	Success	9 Hen. IV?	<i>Confirmation of liberties, charters, and statutes, ... etc.</i> Asserts principle: House of Commons issues money grants.
1512 - 14	Partial	4 Hen. VIII, c.18; 6 Hen. VIII, c.24	<i>Surveyors of Crown lands, etc. (1512; 1514)</i> . Crown appoints Chief Auditors to take account of all things.
1529	Failed	21 Hen. VIII, c.24	<i>Release of Loans etc 1529</i> . Parliament wipes out Crown's debts, "loaned" to him 1522-28.
1535 -36	Limited	27 Hen. VIII, c.27 28 Hen. VIII, c.11	<i>Court of Augmentations Act 1535; Tithe Act 1536</i> . Improves Crown control over finances; establishes financial courts.

1541	Failed	33 Hen. VIII, c.39	<i>Crown Debts Act 1541</i> . Crown given priority for its debts before all other creditors.
1543	Failed	35 Hen. VIII, c.12	<i>Loans to the King Act 1543</i> . Parliament wipes out Crown's debts (again).
1552	Partial	Failed bill	House of Lords presents bill to make treasurers accountable. Not passed by Commons, on principle of 'prerogative'.
1553	Success	1 Mary, sess. 2, c.10	<i>Dissolution of Certain Courts Act 1553</i> . Crown's financial courts dissolved; control returned to Exchequer.
1560	Success	Letters patent	Appointment of Auditors of the Imprest: establishes permanent system of audit.
1610	Limited	Failed bill	House of Commons present bill to deny Crown subsidies without consent of Parliament. Rejected by House of Lords.
1614	Limited	James I	House of Commons passes "unanimous vote denying the king's right of imposition". Refuses to grant subsidy "until this grievance should be redressed. James dissolved the Parliament" (Maitland, 1911, p. 259).
1625	Success	Charles I	Audits of appropriations first implemented (following accession of Charles I).
1628	Success	Petition of Right	Crown assent given to prohibition of forced loans (to the Crown) without the consent of Parliament.
1629	Failed	Charles I	House of Commons refuses to vote taxation. Parliament dismissed (not resumed until 1640).
1640	Limited	Short Parliament	13 Apr-5 May 1640. Parliament queries Crown request for funds; is dissolved.
1641	Partial	Long Parliament (Nov 1640—Dec 1660).	<i>Triennial Act 1641</i> : maximum three years between Parliaments. Parliament issues Grand Remonstrance repeating grievances, impeaches 12 bishops, attempts to impeach Queen. King enters Commons, attempts to arrest five MPs. <i>Militia Act 1641</i> : permits troops to be raised only under officers approved by Parliament.
1642	Success	15 Sep 1642 (Charles I)	1st Civil War begins Aug (1642-46). Parliamentary ordinance appoints Navy Commissioners to examine and authorise all Navy accounts (over-ruling Crown).
1643	Success	21 Sep 1643 (Charles I)	<i>Ordinance for the due and orderly receiving and collecting of the King's...Revenue, and the arrears thereof</i> . Parliament appoints Committee for the Revenue, to take all Crown revenues and use them as they decide.
1644	Success	22 Feb 1644 (Charles I)	<i>Ordinance for taking and receiving Accompts of the Kingdom</i> . Parliament appoints Committee for Accounts. In July, passes Ordinance reinforcing Committee's powers.
1645	Success	11 Sep 1645 (Charles I)	<i>Ordinance appointing a Comptrol on the Office of Excise</i> . Appoints a Comptroller of the Office of Excise, with salary, to keep accounts according to Parliament's instructions.
1646	Success	14 Dec 1646 (Charles I)	<i>Ordinance for justifying the Proceedings of Parliament</i> . End of 1 st Civil War.
1647	Success	22 Feb 1647 (Charles I)	<i>Ordinance concerning the Excise, with Additional Instructions for the better regulating the same</i> . Formalises power of Parliament to collect excise for public use.
"	Success	Dec 1647	Various ordinances for auditing, paying etc Army salaries (sorting out issues from 1 st Civil War).
"	Success	8 Aug 1649	<i>Act for taking Accompts belonging to Navy and Customs</i> .
"	Success	15 Feb 1649	<i>Act for Allowances to Sheriffs upon passing their Accompts</i> .
"	Success	28 May 1649	<i>Act for...Examining and stating the Accompts of the Officers and Soldiers now in the Parliament's service....</i>
"	Success	11 Oct 1649	<i>Act for taking and receiving the Accompts of the Commonwealth, with Instructions concerning the same</i> .
1653	Success	7 Oct 1653 (Cromwell)	<i>Act for Accounts and clearing of Public Debts and for discovering frauds or concealments of any thing due to the Commonwealth</i> . Appoints seven commissioners.

1660	Failed	Charles II (Restoration)	Separation of Exchequer and Treasury. Treasury gained "the superintendence of financial affairs. The functions of the Exchequer became confined to the receipt of public money and to its lawful issue, to record and to audit. It merely controlled issue and even this task was performed inefficiently" (Chubb, 1952, pp. 12-13).
"	Partial	Charles II	House of Commons gains sole control of financial matters: Lords denied right to amend financial bills.
1667	Success	19 & 20 Charles II, c.1	<i>Accounts of Public Moneys Act 1667</i> . Parliament grants Crown a revenue for life (from customs and excise). Enforces principle that additional grants to the Crown should be appropriated and expenditure audited.
1671	Success	13 Apr 1671	Parliamentary resolution: all supplies to the Crown are the sole gift of the House of Commons, which also has sole right to determine the purposes of such grants.
1688	Success	1 Will and Mary, c.14	<i>Revenue Act 1688: An Act for preventing Doubts and Questions concerning the Collecting of the Public Revenue</i> .
"	Success	1 Will and Mary, c.28	<i>Appropriation of Revenue Act 1688</i> . Provides for portion of specified revenues to be appropriated and audited.
"	Success	1 Will and Mary, sess. 2, c.2 Bill of Rights	<i>Declaring the Rights and Liberties of the Subject and Settling the Succession of the Crown</i> . Limits power of Crown; establishes Parliamentary privilege.
1689	Success	2 Will and Mary, c.1	<i>Crown and Parliament Recognition Act 1689</i> . Secures regular appropriation.
1690	Success	2 Will and Mary, sess. 2, c.11	<i>Public Accounts Act 1690: Act for Appointing and Enabling Commissioners to Examine Take and State the Public Accounts of the Kingdom</i> .
1691	Success		House of Commons conference with House of Lords to enforce their right to appoint auditors of accounts.
1694	Success		Bank of England formed: a government bank.
1695	Success	6 & 7 Will. III, c.9	<i>Public Accounts Act 1695</i> . Names commissioners to take, examine and state the public accounts.
1696	Success	8 & 9 Will. III, c.28	<i>Receipt of Exchequer Act 1696: for the better observation of the course anciently used in the Receipt of the Exchequer</i> . Places obligation to ensure compliance on the Auditor of the Receipt, Clerk of the Pells and Tellers, rather than Treasury.
1697	Success	9 Will. III, c.23	<i>Civil List Act 1697</i> . First time the annual amount assigned to the Crown (the Civil List) appears as statute.
1698	Success	11 Will. III, c.8	Appoints Commissioners to sort out arrears in military pay and accounts.
1701	Success	13 & 14 Will. III, c.1	<i>Debts Due to the Army, etc. Act 1701</i> . Revives and continues the 1698 Act.
1702	Success	1 Ann, c.4	<i>Public Accounts Act 1702: for taking, examining and stating the public accounts of the kingdom</i> . Limits power of Crown.
1710	Success	9 Ann, c.18	<i>Public Accounts Act 1710</i>
1711	Success	10 Ann, c.11	<i>Public Accounts Act 1711</i>
1712	Success	13 Ann, c.3	<i>Public Accounts Act 1712</i>
1716	Success	3 Geo. I, c.15	<i>Estreats Act 1716</i>
1727	Limited	House of Lords resolution	House of Commons grants a sum to Crown for use in potential emergencies: Lords protest this is inconsistent with principle of supply only being granted for specific purposes.
1730	Success	4 Geo. II, c.26	<i>Proceedings in Courts of Justice Act 1730</i> (passed 1731) Requires English language and common characters to be used in all judicial proceedings.
1732	Failed	6 Geo. II, c.6	<i>Receipt of the Exchequer Act 1732. The Act that Proceedings shall be entered in English not to affect the</i>

			<i>Receipt of Exchequer</i> (not abolished until 1834).
1732	Partial	Finance Committee	Recommends a survey of fees and emoluments payable in Courts of Justice. Implemented by Royal Commission.
1734	Limited	House of Lords resolution	Protest by House of Lords against the Commons granting supply without specifying a purpose (without an estimate).
1760	Partial	Accession of George III.	Crown surrenders management of royal domains in return for a fixed Civil List grant. However, also begins regular habit of overspending and exceeding Civil List, then applying to Parliament for additional funds. Parliament "accepted the premise that...the king's administration was his own affair and that it was 'not proper to require any account of the expenditure...unless money had been demanded of Parliament to pay debts'" (Chubb, 1952, p. 10).
1780	Success	20 Geo. III, c.54	<i>Audit of Public Accounts Act 1780</i> . Supported in debate as a Constitutional right (referring to 1691 conference on right to appoint auditors). Appoints six commissioners to examine, take and state public accounts. Renewed annually (until 1787). Issues 15 reports Nov 1780-Dec 1786.
1782	Success	22 Geo. III, c.81	<i>Paymaster General Act 1782</i> . Abolishes practice of revenue collectors holding sums for long periods.
"	Success	22 Geo. III, c.82	<i>Civil List and Secret Service Money Act 1782 (Burke's Civil Establishment Act)</i> . Increases independence of Parliament. Treasury given power over Civil List expenditure.
1783	Partial	23 Geo. III, c.82	<i>Act for establishing certain Regulations in the Receipt of the Exchequer</i> . Abolishes outdated offices, personal receipt of fees and use of tallies in the Exchequer. Not effected until 1826, upon death of the last Chamberlain.
1785	Partial	25 Geo. III, c.19	<i>Act for Appointing Commissioners to Enquire into the Fees, Gratuities...received in Public Offices</i> . Issues 10 reports Apr 1786-Jun 1788.
"	Partial	25 Geo. III, c.52 (also 25 Geo. III, c.68)	<i>Act for better examining and auditing the Public Accounts 1785</i> . Abolishes Auditors of the Imprest. Appoints five Commissioners for Auditing the Public Accounts (providing for regular audit, not irregular Parliamentary inquiries). Commissioners have some independence but report to Treasury. Issues 15 reports to Dec 1786 (see 13 th , 1785).
"	Partial	Finance Committee	<i>Commissioners for Examining Public Accounts: 13th Report</i> . Recommends consolidating all public revenue accounts into one fund (implemented 1787) and introducing a simpler, uniform mode of account keeping.
1786	Partial	Finance Committee	<i>Select Committee on Public Income and Expenditure</i> . Recommends establishing a general Fee Fund in Treasury, to collect all fees, gifts, etc. received in government offices.
1787	Success	27 Geo. III, c.13	<i>Customs and Excise Act 1787</i> (Consolidated Revenue). Creates one total consolidated fund. Obliges Treasury to annually lay accounts before Parliament.
1791	Success	Finance Committee	<i>Select Committee on Public Income and Expenditure</i> (reports May). Compares public accounts for 1791 to those for 1786.
1794	Partial	34 Geo. III, c.59	<i>Audit of Public Accounts Act 1794</i> . Extends powers of Audit Commissioners to Navy.
1797	Partial	Finance Committee	<i>Select Committee on Public Revenue and Expenditure</i> . Issues 36 reports 1797-1803. Several reports focussing on resolving issues of fees (see 1786).
1799	Partial	39 Geo. III, c.83	<i>Auditors of Land Revenue Act 1799</i> . Abolishes Auditors of Land Revenue; transfers duties to Audit Commissioners.
1800	Partial	39 & 40 Geo. III, c.54	<i>Public Accountants Act 1800</i> . Extends Audit Board powers for recovering funds from public accountants. Also charges interest on retained sums, to ensure rapid transfer.

"	Partial	41 Geo. III, c.22	<i>Expenditure in the West Indies Act 1800</i> . Appoints five commissioners to examine public accounts of military "in the West Indies during Present War". Extended by 48 Geo. III, c. 91 (<i>Accounts of Expenditure in West Indies Act 1808</i>).
1802	Success	42 Geo. III, c.70	<i>Public Accounts Act 1802</i> . Obliges Treasury to lay annual public accounts before Parliament.
"	Success	Return: Public Income and Expenditure, 1802	First Annual Finance Account published. Includes vote for Miscellaneous Civil Services: now to be provided by annual appropriations and estimates, not permanent charges.
1803	Partial	Finance Committee	<i>Select Committee to inquire and report on Civil List</i> . Issues five reports: 1803, 1804, and another three before 1815.
1805	Partial	45 Geo. III, c.55; 91	<i>Auditing of Public Accounts Act 1805</i> . Additional Board added to Audit commissioners (to manage backlog on army accounts from Napoleonic wars (Chester, 1981, p. 210).
1806	Partial	46 Geo. III, c.141	<i>Audit of Public Accounts Act 1806</i> . Modifies Audit Board operations by separating comptroller of army accounts and auditor of public accounts. Appoints 10 commissioners for auditing public accounts. Not independent (reports to Treasury); only concerned with issue of funds.
1807	Partial	Finance Committee	<i>Committee on Regulations and Checks to Control Public Expenditure</i> . Issues 13 reports 1807-1812: see 5 th and 10 th (both 1810).
1810	Partial	Finance Committee	<i>Committee on Public Expenditure: 5th Report—Audit of Public Accounts</i> . Criticises account auditing system and provisions of 46 Geo. III, c.141. Notes Treasury control: Parliament is not informed of Board's findings, recommendations, or Treasury's reactions to these. Recommends a single Audit Board responsible for all accounts, and that Parliament should be annually informed of all salaries, emoluments and expenses in public offices.
"	Partial	Finance Committee	<i>Committee on Public Expenditure: 10th Report</i> . Follow-on from 5th Report. Notes several recommendations have been implemented, resulting in "considerable improvements", but that Latin and old numbering still being used.
"	Success	50 Geo. III, c.117	<i>Public Salaries etc Act 1810</i> . Accounts of public salaries to be annually laid before Parliament.
1813	Success	53 Geo. III, c.86	<i>Naval Compensations, etc Act 1813</i> . Naval allowances to be annually laid before Parliament.
"	Partial	53 Geo. III, c.150	<i>Audit of Accounts, etc. Act 1813...for removing delays in passing the Public Accounts; and for making New Arrangements for conducting the business of the Audit Office</i> . Still under Treasury control.
1814	Success	54 Geo. III, c.184	<i>Accounts of Colonial Revenues Act 1814</i> . Creates separate Colonial Audit Office to audit accounts of five colonies. Extended by various acts until made permanent in 1821. Applicable to NSW in 1822. Abolished 1832.
1816	Success	56 Geo. III, c.46	<i>Civil List Audit Act 1816</i> . Civil list accounts to be audited (auditor appointed by Treasury).
"	Success	56 Geo. III, c.98	<i>Consolidated Fund Act 1816</i> . Creates one consolidated fund for all British and Irish public revenues.
1817	Partial	Finance Committee	<i>Committee on the Public Income and Expenditure...and measures for relief</i> . Issues 16 reports 1817-1819.
"	Partial	57 Geo. III, c.84	<i>Offices of Exchequer Act 1817</i> . Treasury given administrative control of the Receipt of the Exchequer (implemented 1834).
1819	Partial	Finance Committee	<i>Select Committee on Finance</i> . Appointed 1819. 5 th Report: <i>Audit Office</i> (July). Refers to recommendations of 1810 report; criticises lack of action implementing improved processes and continuing use of Latin etc.

1821	Partial	1 & 2 Geo. IV, c.121	<i>Commissariat Accounts Act 1821</i> . Appoints three permanent Commissioners to examine colonial revenue accounts (under Treasury authority) (see 1814). Abolished 1832.
1822	Partial	Finance Committee	<i>Select Committee on mode of simplifying the Accounts laid Annually before Parliament</i> . Notes these accounts are annually laid before Parliament, in accordance with 1802 Act. Recommends new forms (implemented 1823).
1823	Success		Introduction of annual balance sheets of income and expenditure (recommended by 1822 Committee).
1826	Success		Exchequer and Treasury transition from using wooden tallies to written receipts.
1828	Partial	Finance Committee	<i>Select Committee on State of Public Income and Expenditure, and on Establishing effectual control on charges incurred in its receipt, custody and application</i> . Issues four reports in 1828.
1829	Partial	Finance Committee	<i>Commission on the Public Accounts</i> : appointed to examine account keeping processes in the major departments (see 1 st Report 1831). Focus on role of audit in securing conformance with appropriations.
1830	Partial	Finance Committee	<i>Commissioners of the Receipt and Expenditure of Malta, Gibraltar, Australian Colonies and Mauritius</i> . Issues four reports 1830-31.
1831	Partial	Finance Committee	<i>Commissioners of Public Accounts: 1st Report</i> . Recommends Exchequer functions to be controlled by a new officer (implemented 1834: Comptroller-General of Exchequer). Recognises that effective Parliamentary control requires the House to examine annual accounts before voting the annual budget: calls for an independent committee (ie a PAC) to examine and report on annually accounts (followed-up 1846).
1832	Success	2 Will. IV, c.1	<i>Crown Lands Act 1832</i> . Extends public sector audit to land revenues.
"	Success	2 & 3 Will. IV, c.26	<i>Colonial Audit Revenues Act 1832</i> . Merges Colonial Audit Board into Commissioners for Public sector audit (see 1814; 1821).
"	Success	2 & 3 Will. IV, c.40	<i>Admiralty Act 1832</i> . Appropriation audit applied to Naval accounts and reported to Parliament.
"	Success	2 & 3 Will. IV, c.99	<i>Commissioners of Audit Act 1832</i> . Commissioner of Public Accounts made responsible for auditing Irish public accounts.
1834	Success	4 & 5 Will. IV, c.15	<i>Office of Receipt of Exchequer Act 1834</i> . Implements recommendation of 1831 report to establish new, independent Office of Comptroller-General of the Receipt and Issue of the Exchequer (also see 1817).
1837	Partial	Finance Committee	<i>Select Committee on Accounts of Colonial Receipt and Expenditure</i> . Reports with no recommendations.
1844	Partial		Treasury memorandum tabled in Parliament, outlining functions and processes of its Commissariat department.
1845	Partial	Finance Committee	<i>Committee of Inquiry into System of Account and Audit. 6th Report: Preparation, Audit and Presentation to Parliament of Annual Accounts of the Naval and Military Departments</i> . Recommends (a) extending appropriation audit to War Office and Ordnance; (b) Commissioners of Audit to examine accounts on behalf of Treasury and Parliament; with Treasury presenting the audit reports to Parliament. Implemented 1846.
1845	Success	Finance Committee	<i>Select Committee on Colonial Accounts</i> . Extensive recommendations for improvements. Implemented in Treasury Instructions sent to all colonies by 1847.

1846	Success	9 & 10 Vic., c.92	<i>Naval and Military Accounts Act 1846</i> . Extends appropriation audit to War Office, Commissariat and Ordnance.
"	Success	9 & 10 Vic., c.116	<i>Appropriation Act 1846</i> . Amends Appropriation Act to permit virement only in Army and Navy services, and elsewhere only if absolutely necessary.
1847	Success	Finance Committee	<i>Select Committee on Miscellaneous Expenditure</i> : reviews classification of civil votes. Recommends that departments present separate estimates to Parliament (implemented 1849). Issues two reports 1848; 1860.
1848	Success	House of Commons Resolution	13 May 1848: " <i>That this House cannot be the effectual guardian of the revenues of the State unless the whole amount of the taxes and the various other sources of income received from the public accounts be either paid in or accounted for to the Exchequer.</i> "
1849	Limited	Treasury Minute 13 Apr 1849	Audit Commissioners report (to Treasury). Recommend (a) repealing all conflicting / outdated legislation governing the Board's proceedings, and passing new Act; (b) improving Audit Office administrative processes (update forms; define accurate job duties; receive accounts monthly).
1851	Success	14 & 15 Vic., c.42	<i>Crown Lands Act 1851</i> . Extends appropriation audit to departments of Woods and Forests, and Public Works.
1854	Success	17 & 18 Vic., c.94	<i>Public Revenue and Consolidated Fund Charges Act 1854</i> . Requires all revenue departments to present estimates of expenditure costs.
1857	Success	Finance Committee	<i>Select Committee on Public Moneys</i> (appointed 1856). Inquiry on how public money is received, issued and audited. Issues three reports (1856, 1857, 1857). Criticises the Exchequer control system (established 1834). Recommends extending appropriation audit to all revenue accounts and to civil services, and for Audit Board to report directly to Parliament. Implemented in 1886 Act.
1860	Partial	Finance Committee	<i>Select Committee on Miscellaneous Expenditure</i> . Criticises current system as not all estimates are audited. Supports recommendations of 1857 Report.
1861	Partial	Finance Committee	<i>Select Committee on Public Accounts</i> . Criticises current system as not all accounts are independently audited. Issues five reports Apr-Jul 1861.
"	Success	24 & 25 Vic., c.93	<i>Revenue Departments Accounts Act 1861</i> (assented 6 Aug). Extends appropriation audit to revenue departments.
1862	Success	Finance Committee (PAC)	<i>Standing Public Accounts Committee (PAC)</i> established (April). Chair is always a member of Opposition.
1863	Partial	Treasury Minute 27 Jan 1863	Practice of virement further restricted.
"	Success	Finance Committee (PAC)	PAC: Advises the 1861 Committee recommendations have been implemented, but more steps on appropriation audits are needed. Issues two reports May-Jun 1863.
1865	Success	28 & 29 Vic., c.93	<i>Comptroller of the Exchequer, etc. Act 1865</i> . Audit Board Chairman appointed as Comptroller-General of Exchequer.
1866	Success	29 & 30 Vic., c.39	<i>Exchequer and Audit Departments Act 1866</i> . Establishes independent Comptroller and Auditor General (CAG) to audit every appropriation account.
1871	Partial	Finance Committee (PAC)	PAC: <i>6th Report</i> (Jul). Notes no official action has been taken on their 1868 and 1869 recommendations that Treasury should inquire into extending the audit of Naval and Military Accounts by the CAG. Treasury agree to implement inquiry (in Minute 12 Aug 1871). PAC inquires again on progress in 1872, 1874 and 1875. See 1876.
1873	Success	Order in Council	Order in Council passed 16 Jan, formally prescribing manner of keeping accounts (a requirement of <i>E&AD Act</i>

			1866). (See Appendices in 1 st PAC Report, Mar 1873.)
1876	Partial	Finance Committee (PAC)	<i>PAC: 3rd Report</i> (Jun). Supports Treasury proposal extending CAG audit to Naval and Military accounts using a test audit process (Treasury Minute 20 Mar 1876). See 1889.
1888	Success	Finance Committee (PAC)	<i>PAC: 2nd Report</i> (Aug). Notes that if CAG, in course of audit, notes improper expenditure or waste, it is his duty to inform Parliament.
1889	Success	52 & 53 Vic., c.31	<i>Army and Navy Audit Act 1889</i> . Extends CAG audit to naval and military accounts.
1891	Success	54 & 55 Vic., c.24	<i>Public Accounts and Charges Act 1891</i> . Abolishes Office of Receiver-General of Inland Revenue; provides for appropriation and audit of Inland Revenue moneys.
1903	Success	Finance Committee	<i>Select Committee on National Expenditure: Report</i> (Jan). Includes evidence for Constitutional principle supporting Parliamentary control over finances. Recommends PAC should continue supporting CAG to scrutinise and report improper / wasteful expenditure (see 1888). Recommends HoC should set aside a full day each year to consider PAC reports (adopted in 1905, 1907, 1908 and 1910).
1905	Success	Finance Committee (PAC)	<i>PAC: 1st Report</i> (May). Sets out Constitutional principle that only Parliament can alter existing system of financial control (not departmental Chief Accounting Officers).
1912	Success	Finance Committee	First <i>Estimates Committee</i> established (first report July). Ceased with outbreak of war in 1914.
1917	Success	Finance Committee	<i>Select Committee on National Expenditure: Report</i> . To examine current expenditure; make recommendations on public accounts. Operated Aug 1917-Dec 1920.
1921	Success	11 & 12 Geo. V, c.52	<i>Exchequer and Audit Departments Act 1921</i> . An Act to amend the <i>Exchequer and Audit Departments Acts 1866 and 1889</i> . Permits test audits.
"	Success	Finance Committee	Second <i>Estimates Committee</i> (1921-1939)

APPENDIX 4

BRITISH COLONIES 1837

This list provides additional insight into the enormity of the administrative task of managing the colonies. Reproduced (with original spellings) from its 1837 publication, it identifies Britain's 39 "Colonial Possessions" at that time (only four of which were in Australia) (Glenelg, 1837, pp. vi-vii). It further shows the range of processes by which each colony had come under British control and the composition of the local government constitutional structures.

"List of His Majesty's Colonial Possessions 1837" (Glenelg, 1837, pp. vi-vii).

Colony	Date of Capture, Cession or Settlement	Whether having Legislative Assemblies or Councils
Lower Canada	Capitulation, 18 Sept. 1759 (& Cession by Treaty, 1763)	Governor, Council & Assembly
Upper Canada	Capitulation, 8 Sept 1760 (& Cession by Treaty, 1763)	ditto
New Brunswick	Fisheries & Settlements, established soon after discovery in 1497	ditto
Nova Scotia		ditto
Cape Breton		ditto
Prince Edward's Island		ditto
Newfoundland		ditto
Antigua	Settlement, 1632	ditto
Barbadoes	ditto, 1605	ditto
Dominica	Ceded by France, 1763	ditto
Grenada	ditto, 1763	ditto
Jamaica	Capitulation, 1655	ditto
Montserrat	Settlement, 1632	ditto
Nevis	ditto, 1628	ditto
St Kitts	ditto, 1623	ditto
St Lucia	Capitulation, 22 June 1803	Governor & Council
St Vincent	Ceded by France, 1763	Governor, Council & Assembly
Tobago	ditto, 1763	ditto
Tortola (Virgin Islands)	Settlement, 1666	ditto
Anguilla	ditto, 1666	ditto
Trinidad	Capitulation, 18 Feb 1797	Governor & Council
Bahamas	Settlement, 1629	Governor, Council & Assembly
Bermudas	ditto, 1609	ditto
British Guiana ^a (Demerara & Essequibo)	Capitulation, 18 Sept 1803	Governor & the Honourable the Court of Policy
British Guiana ^a (Berbice)	ditto, 23 Sept. 1803	ditto
Honduras	Treaty, 1670	Superintendent & Magistrates
Heligoland	Capitulation, 4 Sept 1807	Governor
Gibraltar	ditto, 4 Aug 1704	ditto
Malta & Gozo	ditto, 5 Sept 1800	Governor & Council
Cape of Good Hope	ditto, 10 Jan 1806	ditto
Sierra Leone	Settlement, 1787	ditto
Gambia	ditto, 1631	ditto
St Helena	Settlement by East India Co. 1651; vested in the Crown 1833	ditto
Ceylon	Capitulation, 17 Sept 1795	ditto

Mauritius	ditto 3 Dec 1810	ditto
New South Wales ^b	Settlement, 1787	Governor & Council, & British Acts of Parliament
Van Diemen's Land	ditto 1803	ditto
Western Australia	ditto 1829	ditto
Southern Australia	ditto 1836	ditto

Notes:

- a. The settlements of Demerary, Essequibo and Berbice were united into the one colony of British Guiana in 1831 (Colonial Office, 1846, pp. 88-90).
- b. In 1837, when this list was compiled, New South Wales included the settlements that would later become the separate colonies of Victoria and Queensland.

The following information is a summary of the 49 new colonial accounting requirements implemented by the Imperial Treasury in 1847, as a result of the 19 recommendations of the Select Committee on Colonial Accounts (1845), discussed in Chapter 5. The references at the end of each point refer to the original numbering of the Select Committee (SC) recommendation (Select Committee on Colonial Accounts, 1845, pp. iii-iv) and the subsequent Treasury Instruction (TI) (Treasury, 1847, pp. 21-26).

- Annual submission to Britain of annual estimates for all expected revenue (in gross, with no deductions) and expenditure on each service and charge, classified according to the same specific and detailed heads at every stage (SC 1-5; TI 1-5, 21-25, 35-39, 42-44, 49).
- Payment of gross revenues into the colonial chest with no deductions (SC 4; TI 20). "This fundamental principle of all sound and satisfactory public accountancy, has been recommended by the Audit Board itself—has been approved by the Treasury, and laid down in the strongest terms by the Commissioners of Public Accounts" (UK, HC, April 1, 1845, vol. 78. cc. 1321-31).
- Fixed charges for salaries, allowances and office contingencies to be distinguished from all other charges (SC 6; TI 26-27, 29, 30-31, 33-34, 40).
- Emergency expenditure, not included in the annual estimate, not to be included as "Unforeseen Charges" but to be made up (in the same way as the annual estimate) as a supplementary estimate and forwarded to Britain (SC 7; TI 6, 28).
- Annual estimates to also show, in a separate column under the same general heads, the actual receipt and expenditure of previous year. To be prepared by local Auditor immediately after close and examination of yearly accounts, showing differences (with explanation), and transmitted to the Audit Office via the Secretary of State and the Treasury (SC 8; TI 7).
- Adoption of the double entry accounting system (SC 9; TI 8).

- A cash book, journal and ledger to be kept in all the colonies, with the various heads of receipt and expenditure matching those in the Estimates (SC 10; TI 9-12).
- Auditor empowered "at any and all reasonable times" (on application to Governor) to inspect the cash and other balances of the Treasurer and compare to the accounts (SC 11; TI 41, p. 25) (Treasury, 1847, p. 25).
- A complete set of accounts, accompanied by the relevant estimates, to be sent by the Auditor to Britain within three months of the end of the year. Another complete set to remain in colony (SC 12-14; TI 7, 18-19, 45).
- Queries about the colonial accounts, arising from their examination by the Imperial Board of Audit, to be replied to with one month of receipt (SC 15-17; TI 46-47).
- Abstracts of colonial accounts, with the relevant estimates, to be annually presented to Parliament (SC 18; TI 45, 48).
- The Audit Office to keep a systematic and complete record of examined colonial accounts so they can accurately report to Parliament (SC 19).

These instructions to the Colonial Auditor of New South Wales, dated 13 June 1826, were received by Governor Darling in February 1827 (Treasury to Auditor of Accounts in NSW, 13 June 1826. AO 16/44 (AJCP reel 1541, 1787-1826)). They are transcribed below from the handwritten original with original spelling and punctuation. The same despatch containing these instructions also contained separate instructions (of the same date) to the Agent, Treasurer and Governor of New South Wales detailing their individual responsibilities and the mode of accounting for revenue and expenditure, plus a set of ten template forms for recording and reporting on various aspects. Copies of several Royal Warrants for the approved annual expenditure for the government of New South Wales were also included in the package, respectively dated 10 October 1788, 10 October 1788-1790, and 1825.

The Instructions to the Governor, and the covering letter, can also be found at Bathurst to Darling, 11 Aug 1826. HRA Series I, Vol. XII, pp. 483-493.

Instructions to the Auditor of Accounts in the Colony of New South Wales

1st. You will receive herewith a Copy of Our Instructions to the Treasurer of the Colony in regard to the Custody, disbursement and accounting for the Public Money, and you will be furnished with a Copy of Extracts from Our Instructions to the Governor of the Colony respecting the Revenue and Expenditure thereof with reference to which and to such further Regulations as may be from time to time Established. You will examine and report upon all Accounts, and abstracts that may be referred to you, in doing which you will be guided by the following general regulations subject to such particular directions as may be given you by the Governor.

2nd. You will call upon all Colonial Officers accountable for the Receipt and Expenditure of Public Moneys, or Stores, to render to you the Accounts required by Our Instructions, or by the Colonial Regulations, and you will ensure that all transactions in which they are concerned are conducted in Conformity with those Instructions and Regulations.

3rd. You are to require from all Persons where Accounts are rendered to you Copies of all Orders and Regulations, under which the duties of their respective Departments are carried on, and you are

to attend that all Public Monies, Bills, Stores, etc are duly brought to the Auditor of the Public.

4th. When Accounts are sent to you for Examination you are to require the production of all necessary Explanatory documents, you are to examine the Computations and Castings, to compare each separate Abstract with the Vouchers accompanying the same and to certify the amount on each Abstract and Account Current passed by you in Words at length noting the Amount of any Surcharge.

5th. In all cases of Accounts of the Collectors of Revenue being referred to you for examination you will call for such documents as you may think necessary [*sic*] to substantiate the entries therein, and should any difficulty be made to the production of them, you will represent the same to the Governor for his directions thereon and you will Certify upon each Account the Amount of the [illegible] for which the Collector became responsible and of the other payment into the Treasury, or other Authorized Application of it.

6th. You are to attend to the prices paid for all Articles, hired, purchased, or contracted for, and to ascertain that all Contracts, and Agreements have been punctually fulfilled.

7th. You will be careful to ascertain that all Advances of Public Money are duly accounted for, and that all necessary [illegible] Accounts of Agents or other Persons to whom such Advances are made, are duly and punctually rendered, and you will report all omissions without delay to the Governor, you will transmit with the Abstract of Outstanding Advances, Copies of every Reports that may relate thereto and of any preceding head respecting them.

8th. You will take care that the Accounts are rendered of the disposal of all these Stores charged for in the Colonial Accounts with the necessary Vouchers and Authorities and you will transmit with the Annual Accounts, Abstracts of such Store Accounts certified by you, showing the Quantity of Stores received, the Quantity duly applied to the Public Service and the Quantity remaining in Store. In the event of such Store Accounts not being duly rendered you will represent the same to the Governor in order to his giving the necessary order thereupon and in the Event of your finding it necessary to make a Surcharge against any Store Accountant you will ascertain and State in the Surcharges, the value of the Articles which you conceive are not duly accounted for.

9th. You will see that all Assignments, Clauses of Attorneys or other documents provided to you under the 13th Article of Our Instructions to the Treasurer are legally executed, you will keep a Register of them and will [illegible] to the Receipts for all payments made under them a Certificate to the following Effect:

I (A.B. Auditor) do Certify that sufficient Authority has been shewn to me on the part of C.D. for receiving the Salary or Payment due to E.J.

10th. In all Cases where alterations are required to Accounts you will see that the Affidavits are stated as the day, on which they are actually made, and should it seem from any unforeseen circumstance that the forms of alteration required by Our Instructions are not strictly in accordance with the facts of the Account, you will suggest [illegible].

11th. If in the Examination of any Account, it shall appear to you that the Officer has deviated from his Instructions, or that any Voucher is wanting, or that any Article is incorrect, or requires explanation, you are forthwith to give advice thereof to the Accountant in writing specifying the particular instance or Article and stating your observations or Queries thereon against which you are to require him to insert his answer. In the event of your not being furnished with such Explanations or Vouchers as you may deem satisfactory, and in conforming with established regulations, you will make such a Surcharge against the Accountant.

You will at the close of the Examination of each monthly, or other periodical Account submitted to you, report all findings as thereon to the Governor and transmit Statements of them to the Persons against whom Surcharge is made, and to the Treasurer where instructed not to make any Payment to any Persons against whom Findings is made, until such Surcharge is satisfied or remitted. And you will take especial care that the Treasurer performs his duty in this respect and should he neglect to do so you will hold him accountable for the [illegible] unrecovered, and make it a Surcharge against himself.

12th. The Accounts of the several Collectors of Revenue and the Accounts and Vouchers of the Treasurer will be rendered to you in Duplicate, with the exception of the Warrants and Authorities under the Governors [*sic*] Signature which will only be granted in original; you will cause the Duplicates each to be completed with Copies of these Warrants and Authorities, and of any other Document which from unavoidable circumstances cannot be provided in Duplicate, and you will verify all Copies of Documents that Be attached to either set of the Accounts by Your Signature.

13th. You will examined [*sic*] the Treasurer's Annual Statement, and will Certify the same in the following terms.

I (AB. Auditor) do Certify that I have carefully examined the several Entries appearing both on the Debit and Credit Sides of the foregoing Statement and having compared the sums with the original Accounts of the several Public Departments, as audited in my Office have found them to agree, and I do further Certify that proper Accounts of Particulars,

Authorities and Vouchers, in conformity to the Existing Regulations of Government have been exhibited to me in support of the several Articles of Charges and discharge therein contained.

14th. You will as soon as possible after the close of the year transmit the original Sets of the Treasurers [*sic*] Annual and Monthly Accounts with all Vouchers in support of them, to the Auditor of Colonial Accounts [illegible] to the Consulting with the Accountant as to the mode of transmission, and acquainting him and the Governor by what means and on what day they are forwarded.

15th. You will transmit thereunto:

1st. One Set of the monthly Accounts of the Collectors of the Revenue with your Certificate of Examination.

2nd. Copies of all Surcharges made by you including how they were eventually disposed of and accompanied by Copies of any Orders for remitting Surcharges without the production of the Vouchers and Explanations for want of which they were made.

3rd. A Statement of all Allowances or Accounts outstanding and unliquidated at the End of the Year, specifying the period at which they were made, and noting against each the period at which they ought to have been or are likely to be liquidated.

4th. A Complete Set of Government Gazettes for the year, with Copies of all Orders and Regulations in any way connected with the Finances of the Colony, which are not either contained in the Gazette or attached as Vouchers to the Accounts and any of the Documents requisite for the explaining the Accounts and the Financial State of the Colony.

16th. You will retain in your Office for reference the complete Set of the Cash and Store Accounts rendered to you, and to which you will allow the several Accountants to have access.

17th. You will show to the Treasurer the Triplicate Copies of his monthly and Annual Accounts with your Certificate of their examination, and you will at the request of any other Accountants and upon his presenting a Copy of his Account for that purposes show the same to him with your Certificates of Examination annexed thereto.

18th. You will keep Registers of all Accounts delivered to you specifying the date of delivery, the period when the Examination of them was complete, and the manner in which they were disposed of.

19th. You will report to the Governor all delays and irregularities in the delivery of the various Accounts to be rendered to you, under

these Instructions, or under the regulations of the Colonial Government, in order to the adoption of remedial, or preventative measures he may think advisable.

20th. You will use every incentive to ascertain that the Colonial Revenue is duly and properly Collected, and brought to Account, and you will lose no time in reporting any default or irregularity in that respect to the Governor.

21st. If in the course of your Examination of the Accounts it should appear to you, that any Person [illegible] therein is unacquainted with the Form of Account or the Vouchers required, you are to inform him as to the proper course of proceeding and make any requisite communication to the Governor upon the subject in order that all irregularities may be as few as possible, or prevented or remedied.

22nd. You will call the particular attention of the Governor to all deviations from Instructions or from any other established Regulations of the Colony, in order should he think fit to grant any Authority dispensing with this observance, he may be fully aware of the circumstances of the Case, and that such Authority may be issued in the exercise of the discretionary power vested in him.

23rd. You will implicitly obey all such legal Orders as you may from time to time receive from the Governor or Officer duly Authorized to Act on his behalf, but should it appear to you that such Orders are at variance with Our Instructions or the Regulations of the Colonial Government, you will respectfully represent the same.

24th. You will make all such Reports and Returns to the Governor, or other Public Department, as he may think fit to require, and you will from time to time submit for his information or directions any observations that may seem to you, with reference to your Official duties.

25th. In the Event of your giving over on any occasion the Charge of your Department to any other Person you will take Care that he is furnished with these Instructions, and any regulations that may be established for the conduct of the Department.

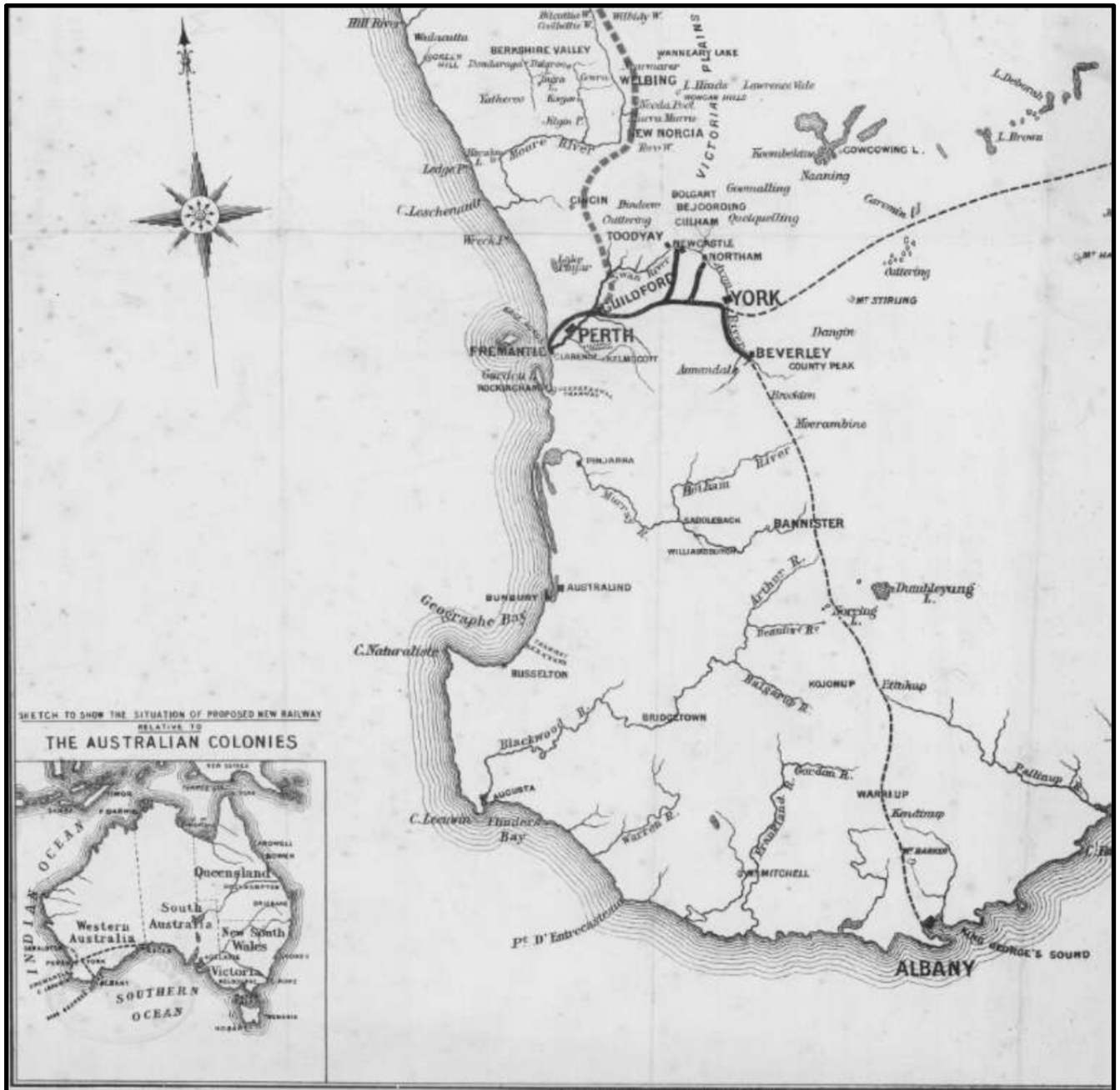
26th. From the very irregular and senselefs [*sic*] manner in which many of the Colonial Accounts have been submitted to this Country, We strictly admonish you to pay the greatest attention to these Instructions, and adhere closely thereto.

Dated 13th June 1826.

Ld Liverpool, F.J. Robinson; G.C.H. Somerset

APPENDIX 7

MAP SOUTH-WEST WESTERN AUSTRALIA 1907



National Library of Australia. (1907). The West Australian Midland land grant railway company limited [cartographic material] [portion]. Retrieved from <http://nla.gov.au/nla.obj-233005785>

APPENDIX 8 PERCENTAGE OF EXCESS EXPENDITURE TO ESTIMATED EXPENDITURE, APPROVED IN APPROPRIATION ACTS, WA, PER YEAR 1835-1893

The table below contains the data pertaining to the various sums of expenditure authorised in the many Appropriation Acts enacted by the WA Parliament 1839-1889 (sometimes up to four separate Appropriation Acts were passed each year). The results for all financial years 1840-1841 to 1889 were graphed and are shown in Chapter 7 as Figure 7.1, including a five year moving average trend line.

These sums in each Appropriation Act were examined and identified as either "Estimated" (that is, approved by the Legislative Council prior to the period in question) or as "Excess" (that is, approved after the funds had been spent). Each sum was entered against the relevant financial year of expenditure; not against the year in which the legislation was enacted. This enabled a calculation of the total amount of funds approved by the Legislative Council for each financial year.

The percentage of excess expenditure to estimated expenditure (final column) was then calculated (that is: total sum approved post-expenditure for each financial year - "Total Excess Expenditure" - as a percentage of the amount approved pre-expenditure - "Total Estimated Expenditure"). For example, the 1840-1841 financial year result of 19.8% was arrived at by calculating the percentage that £1,620 approved post-expenditure ("Total Excess Expenditure") constituted of the total £8,167 approved pre-expenditure ("Total Estimated Expenditure") (made up of £5,121 approved in May 1839 and £3,046 approved in July 1840).

Financial Year	Appropriation Act, date assented (Estimated expenditure) (£)	Total Estimated Expenditure (£) ^a	Appropriation Act (Excess expenditure), date assented (£)	Total Excess Expenditure (£) ^a	% Excess of Est. Exp.
1835	5/6	46,056	na	-	0.0
1836	na	-	na	-	
1837	na	-	na	-	
1838	na	-	na	-	
1839	na	-	na	-	
Apr 40 - Mar 41	2/8, May '39 (5,121) 4/3 Jul '40 (3,046)	8,167	4/3, Jul '40 (<i>Excess portion</i>)	1,620	19.8
1841-42	4/3, Jul '40	8,000	6/9, Jul '42	940 ^b	11.8
1842-43	4&5/11, Jun '41	8,971	7/8, Aug '43	289 ^b	3.2
1843-44	6/9, Jul '42	9,858	na	-	0.0
1844-45	7/8, Aug '43	10,304	na	-	0.0

1845-46	8/3, Jul '44	7,526	9/11, May '46	880 ^b	11.7
1846-47	9/1, Jun '45	6,650	10/3, Jul '47	36 ^b	0.5
1847-48	9/11, May '46 (7,930) 10/3, Jul '47 (9,221)	17,151	na	-	0.0
1848-49	10/21, Mar '48 (9,500) 12/5, Jul '48 (1,422)	10,922	na	-	0.0
1849-50	12/1, Jul '48 (9,000) 12/22, May '49 (1,501) (Jun-Dec '49)	10,501	13/2, Feb '50 (Jun-Dec '49)	1,109 ^b	10.6
Jan-Dec 1850	12/22, May '49 (8,679)	8,679	14/16, Dec '50	1,232 ^c	14.2
1851	13/2, Feb '50 (9,443)	9,443	15/1, Nov '51	8,897 ^c	94.2
1852	14/23, May '51 (14,218) 15/8, May '52 (9,362)	23,580	16/1, Dec '52	6,202 ^c	26.3
1853	15/7, May '52 (22,395) 16/21, Apr '53 (9,630) 16/23, May '53 (1,500)	33,525	17/15, May '54	6,016	17.9
1854	16/21, Apr '53 (31,091) 17/19, Jun '54 (14,326)	45,417	18/7, Apr '55	6,110	13.5
1855	17/19, Jun '54 (43,489) 18/17, Apr '55 (7,984)	51,473	20/4, Jun '56	4,406	8.6
1856	18/17, Apr '55 (51,119), amended to £44,045 by 19/1, Sep '55. 20/3, Jun '56 (1,000) 20/6, Oct '56 (5,058)	50,103	21/9 Jun '57	3,152	6.3
1857	20/3, Jun '56	49,260	22/2, Sep '58	4,445	9.0
1858	21/9, Jun '57	51,030	23/12, Nov '59	6,192	12.1
1859	22/2, Sep '58	56,532	24/2, Oct '60	6,745	11.9
1860	23/12, Nov '59	56,367	25/7, Nov '61	8,467	15.0
1861	24/2, Oct '60	59,746	25/16, Jun '62	25,375 ^d	42.5
1862	25/7, Nov '61	64,986	27/12, Jul '63 (10,171)	7,281 ^e	11.2
1863	25/17, Jun '62	67,803	28/8, Jul '64	7,325	10.8
1864	27/15, Jul '63	70,140	29/10, Jul '65	6,024	8.6
1865	28/11, Jul '64	74,038	30/7, Jul '66	7,500	10.1
1866	29/11, Jul '65	76,059	31/12, Jul '67	14,210 ^f	18.7
1867	30/8, Jul '66	82,045	32/13, Aug '68	12,731	15.5
1868	31/13, Jul '67	93,988	33/11, Jul '69	4,631	4.9
1869	32/15, Aug '68	96,276	33/15, Jun '70	11,218	11.7
1870	33/12, Jul '69	101,294	35/1, Aug '71	15,496	15.3
1871	35/16, Jan '71	102,098	36/2, Aug '72	9,746	9.5
1872	35/15, Aug '71	98,036	37/2, Jul '73	4,688	4.8
1873	36/11, Aug '72	104,062	38/1, Jul '74	9,318	9.0
1874	37/18, Aug '73	114,421	39/4, Dec '75	20,925	18.3
1875	38/17, Nov '74	152,116	40/1, Aug '76	22,498	14.8
1876	39/18, Dec '75	158,863	41/5, Aug '77	18,755	11.8
1877	40/15, Sep '76	153,225	42/7, Jul '78	17,928	11.7
1878	41/20, Aug '77	151,115	43/22, Oct '79 (41,437)	24,699 ^g	16.3
1879	42/29, Jul '78	154,711	45/6, Sep '81	18,477	11.9
1880	43/27, Oct '79 (176,256) 44/14, Sep '80 (4,025)	180,281	45/10, Sep '81	28,600	15.9
1881	44/13, Sep '80 (168,894) 45/5, Sep '81 (14,016)	182,910	50/8, Jul '86	5,842	3.2
1882	45/13, Sep '81 (158,911) 46/4, Aug '82 (11,658)	170,569	47/1, Aug '83	6,938	4.1
1883	46/23, Sep '82 (186,204) 47/5, Aug '83 (24,322)	210,526	48/1, Aug '84	2,059	1.0

1884	47/25, Sep '83 (245,486) 48/2, Aug '84 (23,579)	269,075	49/2, Sep '85	724	0.3
1885	48/23, Sep '84 (247,431) 49/1, Sep '85 (25,086)	272,517	50/1, Jul '86	14	0.0
1886	49/25, Sep '85 (277,107) 50/16, Aug '86 (74,935)	352,042	51/21, Aug '87	5,766	1.6
1887	50/32, Sep '86 (360,594) 51/19, Aug '87 (49,984)	410,578	52/4, Nov '88	3,811	0.9
1888	52/1, Nov '88 (16,659) 52/28, Apr '88 (326,622)	343,281	53/10, Nov '89	1,368	0.4
1889	52/15, Dec '88 (321,314) 53/11, Nov '89 (6,146)	327,460	54/10, Feb '91	6,465	2.0
1890	53/21, Dec '89 (315,277)	315,277	54/11, Feb '91	28,794	9.1
1891	54/1, Jan '91 (60,000) 54/2, Feb '91 (286,684)	346,684	56/2, Jan '93	16,885	4.9
1892	55/1, Jan '92 (80,000) 55/8, Mar '92 (394,049)	474,449	57/21, Oct '93	36,883	7.8
Jan-Jun 1893	56/1, Jan '93 (314,524)	314,524	58/05, Oct '94 (Jan-Jun '93)	28,485	9.1

Notes:

Supp.: Supplementary Appropriation Act

na: No Appropriation Act passed for this financial year.

- a. From Appropriation Acts (WA) (<https://www.slp.wa.gov.au/legislation/statutes.nsf/default.html>).
- b. Recorded in Appropriation Act as "Supplementary" expenditure but approved after financial year end (post-expenditure).
- c. Recorded in Appropriation Act as "Supplementary" expenditure, but approved in last weeks of financial year (predominantly post-expenditure).
- d. Includes: £898 (Transport); £5,696 (Works and Buildings); £10,754 (Roads and Bridges); £2,655 (Misc. Services).
- e. £10,171 less £2,889 received from surplus appropriation, 1861.
- f. Includes: £4,183 (Roads and Bridges); £2,767 (Misc. Services).
- g. £41,437 less £16,738 from "Disbursements...services provided for, and recoverable from Public Works Loan 1878".

APPENDIX 9 CORRESPONDENCE RELEVANT TO THE
AUDIT BILL 1881

Robinson to Kimberley, 13 November 1880, Governor's confidential despatches to Secretary of State, SROWA, Cons 390 v.47.

The Earl of Kimberley
13th November 1880
Confidential

My Lord, With my Despatch No 131 of the 12th Instant I have forwarded to your Lordship a Memorial from the Legislative Council asking that I may be authorized to assent to an Audit Bill similar in its main provisions to the one which I have lately disallowed and also a copy of the Speech which I addressed to the Council at the close of the Session.

2. In my closing Speech it will be observed that I take notice of the manner in which the Memorial to Your Lordship was introduced and express my regret that the rules laid down by Parliament for the purposes of forwarding against surprise should have been departed from. The promoters of the Memorial paid me the bad compliment to suppose that if they allowed me to become aware that such a Memorial was about to be introduced I would prevent its adoption if I could. Instead therefore of printing it in the notice paper is the rule and practice in all such cases here, they had it privately printed at the Office of the West Australian – the only paper which has supported them in the matter of the Audit Bill – privately circulated amongst their own supporters in the House and at one of the last sittings of the Session they hurried it though without affording the Government Members and Supporters any opportunity of considering it. To this sharp practice I felt it my duty to refer in my closing Speech and I am able to assure Your Lordship that the course which I adopted has been endorsed by the press and by public opinion generally. The accompanying article from the Herald (11.9.80) reflects very fairly the general feeling on the Subject. The persons immediately concerned were naturally displeased at my remarks and they have endeavoured to excuse themselves by saying in the columns of the West Australian that they had no wish to take any unfair advantage of the Government, and their only object was to save time as the Session was drawing to a close. I may however remark to your Lordship that Mr Steere (the leader of the so called Opposition) admitted to me in private conversation that their object was to prevent the Government from knowing anything about the Memorial beforehand and his words when I spoke to him about the undesirableness of either party departing from the rules of parliamentary procedure were "Why should we furnish the Enemy

with Ammunition'" and similar words were used by one of Mr Steere's supporters to a Government Member in the House. Although therefore they may now attempt to make excuses for their conduct, of which I believe they already feel heartily ashamed, they must know by now [nb a pencilled tick is beneath the words "by now" and above the word "administered"] that the rebuke which I administered to them was well merited and I hope that the notice which has been taken of their proceedings by myself and by the Press will prevent a repetition of any such practice in the future.

3. I may observe in conclusion that the events of the last Session have in no way impaired the friendly feeling which has always existed between the Elected Members & myself. Mr Steere whose name I have already mentioned though very much in the hands of his party is by no means and unreasonable man himself, and as I thought that he might feel hurt at the rejection of the Audit Bill of which he had had charge from the first, I wrote to him a private note telling him how sorry I was that my duty obliged me to take a course which I feared would be displeasing to him. To this he replied in a note (4 Sept 1880) which gave me the opportunity of setting him right on one or two points and of pointing out in a friendly manner the mistake made by the Council (No. 599) in claiming a right which could only be demanded as a concession. Copies of these letters are Enclosed (4 Sept 1880). In subsequent conversation I remarked to him how foolish it was of the Council to take up a position antagonistic to the Government on such a question as this; that I should have been only too glad as indicated in my opening Speech to join them in any legitimate legislation having for its object the better administration of our finances; and that if they had worked with instead of against the Government they might have had nearly all the wanted, (excepting of course the absolute control over the Auditor which they demanded) without any friction or delay. His answer was, "If we worked harmoniously with the Government our Constituents would think we were doing nothing for them and would not be satisfied."

4. In this is really the key note to the politics: It is a political necessity with the elected Members to harass and attack the Government and this is what makes the present form of Government so exceedingly difficult to administer.

I have etc
William C. Robinson.

Kimberley to Robinson, 19 February 1881, Confidential despatches received from Secretary of State, SROWA, Cons 391 v.259.

Colonial Office, Downing Street,
19 February 1881
Governor Sir William Robinson HCMG, Western Australia
Confidential

Sir, I have the honour to acknowledge the receipt of your despatch marked Confidential of the 13th of November [1880], respecting the manner in which the memorial from the Legislative Council relating to the Audit Bill which accompanied your despatch No 131 of the 12th of November was introduced in the Council.

I have the honour to be, Sir, Your most obedient humble Servant,
Kimberley.

WA, LC, April 4, 1881, pp. 126-129.

MESSAGE (No. 15): Re AUDIT BILL.

MR. SPEAKER announced the receipt of the following Message from His Excellency the Governor:

"The Governor has the honor to lay before the Legislative Council a copy of a Despatch from the Secretary of State on the subject of the Audit Bill, in which His Lordship states that he approves of the course taken by the Governor in withholding his assent to the Bill; that he concurs in the views which the Governor expressed upon the subject of it in his Message No. 22, of the 2nd September; that His Lordship is therefore unable to accede to the Memorial forwarded to him by Your Honorable Council, wherein you requested that the Governor might be directed to assent to a similar Audit Bill if introduced next Session; but that he will be happy to consider any Bill founded on the recommendations of the Commission appointed by the Governor to consider and report on the question whether any improvements could be introduced in the mode of keeping and auditing the accounts.

The Report of the Commission alluded to has already been received and considered by the Governor, and a Bill to give legal effect to the Regulations suggested by the Commission will, as stated by the Governor in his Message No. 22, of the 2nd September, be presented to you at the next Session of Council. In the meanwhile, the recommendations of the Commission are about to be provisionally enforced in the Financial Departments concerned, and the Governor

has no doubt that the changes proposed will be highly beneficial to the Service. The Report of the Finance Commission will be submitted to Your Honorable Council next Session, concurrently with the Bill which the Governor has directed to be prepared for your consideration.

Government House, Perth, 2nd April, 1881."

[Enclosures.]

The Right Honorable Earl of Kimberley, &c., &c., &c.
No. 131. WESTERN AUSTRALIA.
Government House, Perth,
12th November, 1880.

My LORD,-I have the honor to submit, herewith, the following documents:

1. A Bill passed by the Legislative Council on the 30th of August last, intituled 'An Act to regulate the receipt, custody, and issue of the 'Public Moneys, and to provide for the Audit of the Public Accounts.'
2. Governor's Message No. 22, withholding his assent to the Audit Bill.
3. Address of Legislative Council to Governor, No. 47, in reply to Message No. 22.
4. Message No. 26, being Governor's rejoinder to Address No. 47.
5. Memorial of the Legislative Council to the Secretary of State, requesting that the Governor may be directed to assent to a similar Audit Bill if introduced next Session.
6. Governor's Closing Speech, 8th September, 1880.

2. In my Message No. 22, reference is made to the Report of the Select Committee on the Audit Bill, as also to a communication addressed to me by the Treasurer with regard to his evidence before the Committee. Copies of these documents are therefore also forwarded for Your Lordship's consideration.

3. Having stated in my Message No. 22 that, with Your Lordship's approval, I would myself bring in a Bill next Session to embody revised regulations for the Treasury and Audit Departments in legal form, there is in reality only one point which calls for Your Lordship's decision, namely, the proposal to make the Auditor General responsible to the Legislative Council by enacting that he shall not be removed from office unless upon the Address of that body.

4. My views on this point are so fully expressed in my Message No. 22, that I do not consider it necessary to trouble Your Lordship with any further remarks upon it in this Despatch. The clause embodying

the principle which the promoters of the Bill have been anxious to see introduced, was only carried in a full Committee of the House by the casting vote of the Chairman, the Speaker voting with the majority; and I have the satisfaction of knowing that the course which I adopted in refusing my assent to this principle has been supported by the leading Journals of the place (the Inquirer and Herald), and I believe by public opinion generally.

5. The action of the Legislative Council throughout this whole case might lead a casual observer to suppose that I was indifferent as to economy, and insensible of the importance of a prompt and efficient audit of the Public Accounts. A reference to my Opening Speech will show you that I took the initiative in both these matters, and had the Council been satisfied to co-operate with the Government in a friendly spirit, instead of attempting to force the acceptance of a principle which the Government regarded as both unconstitutional and unnecessary, the whole question might have been satisfactorily disposed of during the last Session of Council.

6. Frequent reference is made, in the papers now forwarded, to the alleged extravagance of former Administrations, as showing the necessity for placing the Auditor in a position independent of the Government, and of enabling him to exercise a check on expenditure not sanctioned by the Legislature. On this point I would beg to draw Your Lordship's attention to the following extracts from my Message No. 26:

2. Your Honorable Council dissents from the Governor's opinion that in the direct responsibility of the Governor to the Secretary of State the country possesses as full and ample security for the proper and economical expenditure of public money as would be provided by the Audit Bill, and in support of your opinion you refer to the unauthorised expenditure which has been incurred during the last few years. In the Governor's opinion the overdrafts alluded to, except in so far as they were incurred in connection with public works of an urgent character, were to a great extent due to the practice referred to in his Opening Speech, of framing the Estimates on an insufficient scale, thus leaving it to the Governor to issue on his own authority Supplementary Warrants, which had to be legalized by subsequent legislation. That they were not due to extravagance on the part of the Government will be seen on reference to the Report of the Select Committee on the Over-expenditure for 1878—which considerably exceeded the average in which Report it is stated that 'due regard to economy was as a whole observed by the Government.'

3. Undoubtedly a rigid view should be taken of what constitutes such an emergency as justifies the Governor in

spending money in advance of Legislative authority. Your Honorable Council have apparently somewhat misunderstood the Governor's meaning on this point. The Governor's argument is that where an Audit Act expressly states that in case of emergency the Governor may incur unauthorised expenditure, the Governor must be, as he is now, the judge of the emergency, and that therefore his sense of right and his responsibility to the Secretary of State furnish, under the existing Regulations, as ample security against extravagant or improper expenditure as would exist under the provisions of an Audit Act.

7. I may further observe that the Estimates for 1881 have been passed without much alteration, which is, in itself, an admission on the part of the Legislative Council that the Government have been mindful of economy, while as regards former Administrations it is frankly stated in the Memorial that 'Your Lordship's Memorialists are perfectly ready to allow that there has been but little positive extravagance on the part of the successive Administrations which have governed this Colony during the period in question, and that these Administrations in their expenditure of the public funds have been actuated by a sincere desire to promote the public good.'

8. In pursuance of the intimation made in the twelfth paragraph of my Message No. 22, I am now about to appoint a commission to compare the Regulations contained in the Audit Bill with those already in operation, and to report whether any, and if so what, improvements could be introduced in the mode of keeping and auditing the accounts. The report of the commission will be duly laid before Your Lordship, and, if approved by you, will be embodied in a Bill and submitted to Council at its next Session. I shall be glad if Your Lordship will inform me whether you would wish me to include in the new Bill a provision to make the Auditor General independent of the Government, as desired by certain members of the Legislative Council, or whether Your Lordship concurs in the views which I have expressed on this subject in my Message of the 2nd September.

I have, &c.,
WILLIAM C. F. ROBINSON.

Governor Sir W. C. F. Robinson, K.C.M.G., &c., &c., &c.
WESTERN AUSTRALIA
No. 10. Downing Street,
19th February, 1881.

Sir,-I have the honor to acknowledge the receipt of your Despatch No. 131, of the 12th of November last, transmitting a transcript of a Bill passed by the Legislative Council on the 30th of August last,

intituled 'An Act to regulate the receipt, custody, and issue of the Public moneys, and to provide for the Audit of the Public Accounts.'

2. Your Despatch also inclosed, with other papers relating to the Bill, a Memorial addressed to me by the Legislative Council, requesting that you may be directed to assent to a similar Audit Bill if introduced next Session.

3. I approve of the course which you have taken in withholding your assent to this Bill; and I concur in the views which you expressed upon the subject of it in your Message to the Council of the 2nd of September.

4. The view of the Legislative Council, that the Auditor General should be responsible to that Council instead of to the Governor, is opposed, as you observed in your Message, to the established rule that, in colonies not under Responsible Government, all Public Officers are appointed and removed by the Crown, and their tenure of office is not in any case dependent upon the will of the Local Legislature; and it would not be in accordance with constitutional precedents to place the Auditor General of Western Australia in a different position from that which was held by the same officer in the other Australian colonies before the introduction of Responsible Government. You will therefore be so good as to inform the Speaker that I am unable to accede to the Memorial forwarded to me by the Legislative Council; but that I shall be happy to consider any Bill, founded upon the recommendations of the Commission which I understand you are about to appoint, or probably have now appointed, to consider and to report upon the question whether any improvements can be introduced in the mode of keeping and auditing the accounts.

I have, &c.,
KIMBERLEY.

AUDIT BILL, 1880: REPLY OF SECRETARY OF STATE TO MEMORIAL.

MR. SPEAKER informed the House that he had received the following letter from His Excellency The Governor, in reply to one addressed by him to the Secretary of State, forwarding a memorial re Audit Bill:

"The Honorable Sir L. S. Leake, Speaker.
WESTERN AUSTRALIA.

Government House, Perth,
4th April, 1881.

SIR,-I duly forwarded to the Secretary of State your letter to His Lordship, enclosing a Memorial from the Legislative Council, requesting the Secretary of State to instruct me not to withhold my assent again from an Audit Bill similar in its provisions to the Bill which I disallowed last Session. I am desired, in reply, to inform you that His Lordship is unable to accede to the prayer of the Memorial, but that he will be happy to consider any Bill founded on the recommendations of the Finance Commission which, as you are aware, I not long since appointed to advise on the Regulations of the Treasury and Audit Departments.

The Secretary of State's Despatch will be submitted to the Legislative Council in due course.

I have, &c.,
WILLIAM C. F. ROBINSON."

British House of Commons—Parliamentary Debates (UK, HC, May 27, 1881, vol. 261. cc. 1453-4).

UNCONSTITUTIONAL EXPENDITURE—WESTERN AUSTRALIA.

SIR WALTER B. BARTTELOT [member for Sussex Western] asked the Under Secretary of State for the Colonies, Whether remonstrances have been lately received at the Colonial Office from Western Australia, as to the way in which expenditure has been incurred in that Colony, without previous legislative sanction; and, whether the subject is under the consideration of the Secretary of State?

MR. GRANT DUFF [Sec of State for Colonies] Sir, it might be enough to say that the hon. and gallant Baronet's information is quite correct; but as he has asked me, for good reasons, to give a somewhat full answer to his Question, I must state a few particulars. The Legislative Council of Western Australia, in September of last year, presented an Address to the Governor in connection with a Bill to regulate the receipt, custody, and issue of the public moneys, and to provide for the audit of the public accounts, in which Address the Council represented that the control of the Legislature over the public purse has been merely nominal, and not real, as the present constitution of the Colony contemplates. They further stated that during the past 10 years some £160,000 has, in fact, been expended over and above the sums submitted to vote in the annual Estimates. The Governor pointed out, in reply, that this irregularity has been, to a great extent, due to the practice of framing the Estimates on an insufficient scale, leaving it to the Governor to issue on his own authority Supplementary Warrants, which had to be legalized by subsequent legislation; and he quoted the Report of a Select Committee on over-expenditure for 1878, which stated "that due regard to economy was, as a whole, observed by this Government." The Secretary of State is now considering this matter, and proposes to issue such instructions as may remove, as far as practicable, the irregularity of spending money without the previously obtained authority of the Legislature. Her Majesty's Government are confident that they will have the full co-operation of the Governor in securing the legitimate control of the Legislature over the Public Expenditure.

(1881, July 30). Correspondence upon the Questions of Over-Expenditure and the Control of the Legislature over the Public Finances. *The Herald*, p. 1S.

Governor to Secretary of State. The Right Honorable the Earl of Kimberley, &c., &c., Colonial Office

WESTERN AUSTRALIA.

Government House, Perth.

22nd June, 1881.

MY LORD, ...

2. The accompanying Minute from the Colonial Secretary gives full information on the subject of the overdrafts for last year, and accords with the paragraph in my Speech of the 21st March, to which I have since drawn attention. There are certain Departments, such as Medical, Gaol, Poor Relief, &c., which it is almost impossible to estimate for with accuracy; but I trust I need not assure Your Lordship of my desire to do so, and that, so long as I remain here, the Public Expenditure will be estimated and disbursed with the utmost care.

3. I may be permitted to add that our present temporary embarrassment is a legacy which I inherited from the past, and that I have done my utmost to restore the financial equilibrium, and to place the accounts of the Colony on a sounder basis. In proof of this; permit me to invite Your Lordship's particular attention to my Speech to Council, of the 19th July, 1880, in which I have marked certain paragraphs for easy reference, and to my Despatch No. 86, of the 24th July, 1880, of which a copy is also enclosed.

4. I now further submit the report of the Finance Commission, appointed by me in pursuance of the intimation contained in the 8th paragraph of my Despatch No. 131, of the 12th November, forwarding the rejected Audit Bill, together with copy of the Bill based on the recommendations of the Commission, which I propose to submit to the Legislative Council at its next Session, and which I trust will serve to remove all just grounds for complaint as to the mode of auditing and keeping the Public Accounts, and meet with your Lordship's approval.

5. I may add that I have not waited for the passing of this law to introduce the new system in the Treasury and Audit Departments. From the accompanying Gazette notice Your Lordship will observe that it has been in operation for some weeks in a satisfactory manner. So much discontent has been expressed as to the state of the Public

Accounts that I have thought it advisable to lose no time in giving publicity to the letter from the Finance Commission, which I now submit, and which I feel satisfied will give general satisfaction to the public.

I have, &c WILLIAM C. F. ROBINSON.

Secretary of State to Governor. Sir William C. F. Robinson,
K.C.M.G., &c., &c., &c. WESTERN AUSTRALIA.

Downing Street
June 3, 1881.

SIR, I have the honour to acknowledge the receipt of your Despatch No. 51, of the 28th of March, transmitting a copy of the Speech with which you opened the Special Session of the Legislative Council on the 21st of March.

2. I observe that in this Speech you took occasion to explain the Financial position of the Colony, and you showed that (excluding the expenditure on the Northern Railway), the total Expenditure of last year exceeded the Authorised Expenditure by less than four thousand pounds (£4,000). I have noticed this explanation with satisfaction, more especially since the irregular expenditure of public money in Western Australia, without the previous sanction of Legislature, has recently been the subject of a question in the House of Commons.

3. I enclose a copy of a question asked on this subject on the 27th of May, and a copy of the reply which was returned to it.

4. In my Despatch No. 10, of the 19th of February, on the subject of the Bill which had been passed by the Legislative Council "to regulate the receipt, custody, and issue of the Public Moneys, and to provide for the Audit of the Public Accounts," I explained the reasons which appeared to me to preclude, under the existing Constitution of the Colony, the appointment of an Auditor General holding office on the conditions specified in that Bill, and I promised to consider any Bill which might hereafter be framed, on the recommendation of your proposed Commission, for introducing an amended system of keeping and auditing the Public Accounts.

I did not, however, refer to the representation made by the Council, in their Address which accompanied the Bill, that practically there is no restraint on unauthorised expenditure; in support of which they adduced figures showing the Expenditure in excess of the appropriations during the years 1877, 1878, and 1879.

5. You pointed out, in reply, that these irregularities were due in a great extent to the practice of framing the Estimates on an insufficient scale; and you observed that "the Governor's sense of right, and his responsibility to the Secretary of State, furnish as ample security against excessive or improper Expenditure as would exist under the provisions of an Audit Act."

6. I do not doubt that you have endeavoured to prevent unauthorised expenditure; but it is impossible to deny that the procedure of the Colonial Government during past years has been open to exception in this respect. Under the present Constitution of Western Australia the members of the Legislature, two-thirds of whom are elected by the people, have both the right and the responsibility of controlling the expenditure of Public Money. It would be a dereliction of duty on their part to relax their vigilance in discharging this important function in reliance upon such supervision as the Secretary of State may be able to give, which, from the distance and the impossibility of thoroughly understanding local details, must necessarily be imperfect.

7. I request you to consider and report to me the steps which, under all the circumstances, appear to you and to the Executive Council to be desirable for the purpose of regulating and extending the control of the Legislature over the Public Finance. Amongst other things, it seems desirable that the Estimates should make fuller provision than hitherto for such services as can be foreseen, and a Committee of Public Accounts might be appointed by the Legislative Council to examine the questions connected with the Expenditure of the Colony. The Legislative Council should also at all times be promptly furnished with all such information on the Financial Proposals of the Government and the details of the Revenue and Expenditure of the Colony as it may require.

I have, &c., KIMBERLEY.

Governor to Secretary of State. The Right Honorable the Earl of Kimberley. &c., &c., &c., Colonial Office.

No. 126.

WESTERN AUSTRALIA. Government House, Perth,
July, 15th, 1881.

MY LORD, Your Lordship's Despatch No. 39, of the 3rd June, which I received by last mail, has crossed my Despatch No. 113, of the 22nd June, with which I submitted to you a copy of the Audit Bill which I propose to introduce at the next Session of Council, as also a few observations on the financial position of the Colony.

2. I am gratified to find that your Lordship has recognized my wish to place the Financial affairs of the Colony on a more satisfactory footing, and that the Under Secretary of State, in replying to Sir Walter Barttelot's question in the House of Commons, expressed the confidence felt by Her Majesty's Government in my readiness to co-operate in securing the legitimate control of the Legislature over the public expenditure. Such has been my wish from the outset, although for a time a different impression may have been created in certain quarters, in consequence of my inability to assent to the mode by which the Legislative Council sought to arrive at the result which we equally desired to attain.

3. Your Lordship has justly remarked that the members of the Legislative Council have both the right and the responsibility of controlling the public expenditure. I do not think that this has ever been disputed by any one connected with the Administration; and for my own part I have certainly never denied it. It is true that Estimates have been exceeded, and unauthorized expenditure incurred, in reliance on subsequent confirmation; but I must say that I think that in this matter the Legislative Council has been quite as much to blame as the Government. The evils of exceeding the Estimates have necessarily become more apparent since the creation of the deficit; and I believe I may claim to have been the first to point out to the Council officially the importance of adhering strictly to the Appropriation Act. But the constitutional impropriety of exceeding the authorized expenditure was in reality just as great in more prosperous times as it is today, and unless the Legislative Council can show that it ineffectually remonstrated with the Government during the ten years over which those irregularities are said to have extended, I do not think it is in a position to lay the chief blame on the Executive, or to assert that because certain irregular practices have contributed to our financial embarrassment the constitutional right of the Elective Chamber to regulate the public expenditure has been questioned. As a matter of fact there have been faults on both sides-on the part of the Government in sometimes exceeding the Estimates without authority; on the part of the Council in falling itself into the irregularity of recommending expenditure, by Resolutions, for which no provision may have been made either in the Estimates or the Appropriation Acts. In short, there has been a general laxity of system, of which, while the money lasted, no great notice appears to have been taken by any one; but I confess that I can see but little to support the views entertained by certain members of Council that their constitutional rights have been ignored.

4. In requesting me to consider and report the steps which, under all the circumstances, may appear to my Government to be desirable for the purpose of regulating and extending the control of the Legislature over the Public Finances, Your Lordship suggests, (1) that the Estimates should make fuller provision than hitherto for such services as can be foreseen; (2) that a Committee of Public

Accounts might be appointed by the Council to examine all questions connected with the Expenditure of the Colony; and (3) that the Council should at all times be promptly furnished with all such information on the financial proposals of the Government and the details of Revenue and Expenditure as it may require.

5. The first suggestion, in so far as it rests with me to do so, will be carefully observed in future. As regards your second suggestion, I have the honour to report that the Council is annually in the habit of appointing a Select Committee for the examination of Over-Expenditure, and that I am not acquainted with any Legislative Chamber in which questions of Expenditure are more fully examined and discussed than in the Council of Western Australia. I think, however, it would not be difficult or inexpedient to extend to this Colony a system which I found to work well at Singapore, where a Committee of Unofficial Members advise the Governor during recess on certain questions connected with the Expenditure, and, in order to carry out this arrangement, I have added to the Draft Audit Bill a clause which I hope will meet with your approval.

6. As regards keeping the Council well supplied with information on financial subjects, I beg to state that I do not think the Government has at any time shown itself indisposed to do so, and certainly the members themselves have not failed to make use of their undoubted right and privilege to demand it.

7. The Draft Audit Bill, which I have already submitted to Your Lordship, is the result of much careful deliberation on the part of myself and the members of my Government, and, having again carefully considered it in Executive Council since the receipt of Your Lordship's Despatch, I am not aware that I can improve upon it further than by the introduction of the additional clause to which I have referred. I believe that the new Bill will serve to place the accounts of the Colony on a thoroughly satisfactory footing, while it will satisfy the reasonable wish of the Council to see the Regulations of the Treasury and Audit Departments embodied in a legal form.

I have, &c., WILLIAM C. F. ROBINSON.